

CLARK COUNTY STAFF REPORT

DEPARTMENT: Community Development

DATE: July 6, 2021

REQUESTED ACTION: Obtain Council approval to update Title 40.510 regarding the use of regular mail versus email to send documents during the preliminary development review process.

_____ Consent X Hearing _____ County Manager

BACKGROUND

There is an inconsistency with the code regarding the use of regular mail versus email for sending documents during the preliminary development review process. Staff was looking into various code sections regarding the requirements for sending decisions and developed some questions about the procedures of sending all documents, specifically within CCC 40.510.

Most sections of the code state that documents need to be mailed. These sections were interpreted to allow the use of email instead of regular mail. In a few places, the code specifies that email can be used if the recipient gives consent. Because email is specified in these sections, a question arises as to whether staff can interpret the word “mail” to allow email?

In addition, the process for obtaining consent for the use of email unexpectedly changed due to COVID. Prior to COVID, during in person pre-application conferences and hearings, staff used sign-in sheets that had a check box for attendees to mark if they were willing to receive emails rather than regular mail to gain this consent. This practice stopped with the switch to virtual meetings and inadvertently created a second issue.

After internal discussion, it was decided that the use of email unnecessarily created a potential avenue of appeal. Therefore, staff has been sending an email and regular mail copy of all documents to ensure code requirements are met. This solution is helpful, but over time it will prove to unduly consume staff time, copying costs and mailing costs.

COUNCIL POLICY IMPLICATIONS

Staff is proposing the attached compilation of language changes to the code. A unanimous vote of support from the Development and Engineering Advisory Board (DEAB) occurred on June 3, 2021. A public hearing with Planning Commission was held June 17, 2021 which resulted in a unanimous recommendation of approval to Council of the proposal.

ADMINISTRATIVE POLICY IMPLICATIONS

This code change will positively affect the use of several resources within the Community Development Department. Current costs for paper, envelopes and postage and resources used for copying and stuffing envelopes associated with hard copy mailing will be reduced.

An additional benefit for applicants is a reservation of appeal response time. An appeal of a decision must be filed within fourteen (14) calendar days after written notice of the decision is mailed. Email preserves the applicant/appellants appeal window as the delivery of the decision arrives the day of issuance.

COMMUNITY OUTREACH

The proposed changes were sent to the Department of Commerce on May 19, 2021, requesting an expedited review. Commerce sent a letter of Acknowledgement on May 19, 2021 indicating they will undertake an expedited review. A notification of the proposed change was emailed to the Community Planning interested parties list on May 25, 2021. A notice of Determination of Non-Significance was sent to agencies for comment on May 25, 2021 and published in the Columbian newspaper on May 31, 2021.

A legal notice was published for the Planning Commission hearing on June 2, 2021. Staff held a work session with the Planning Commission and received a unanimous vote of support for the amendment from the Development and Engineering Advisory Board on June 3, 2021. A public hearing with Planning Commission was held June 17, 2021 which resulted in a unanimous recommendation of approval to Council.

BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.
		Action falls within existing budget capacity but requires a change of purpose within existing appropriation
		Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	
Grant Fund Dollar Amount	
Account	
Company Name	

DISTRIBUTION:

Council staff will post all staff reports to The Web. <https://www.clark.wa.gov/council-meetings>

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APPROVED: Eileen S. O'Brien
CLARK COUNTY, WASHINGTON
CLARK COUNTY COUNCIL

DATE: July 6, 2021

SR# —

APPROVED: _____
Kathleen Otto, County Manager

DATE: _____



BUDGET IMPACT ATTACHMENT

Part I: Narrative Explanation

I. A – Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information

The proposed code changes will not have budgetary impacts for the county.

Part II: Estimated Revenues

Fund #/Title	2021 Annual Budget		2022 Annual Budget		2023 Annual Budget	
	GF	Total	GF	Total	GF	Total
Total						

II. A – Describe the type of revenue (grant, fees, etc.)

Part III: Estimated Expenditures

III. A – Expenditures summed up

Fund #/Title	FTE's	2021 Annual Budget		2022 Annual Budget		2023 Annual Budget	
		GF	Total	GF	Total	GF	Total
Total							

III. B – Expenditure by object category

Fund #/Title	2021 Annual Budget		2022 Annual Budget		2023 Annual Budget	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual						
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total						

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Salary/Benefits						
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Supplies						
Travel						
Other controllables						
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ORDINANCE NO. 2021-07-03

An ordinance relating to land use and zoning regulations under Chapters 35.63 and Chapters 36.70A RCW for Type I, II, III and IV Processes in Clark County Code (Title 40.510).

WHEREAS, there is an inconsistency with the code regarding the use of regular mail versus email for sending documents during the preliminary development review process; and

WHEREAS, most sections of Section 40.510 state that documents need to be mailed and were interpreted to allow the use of email instead of regular mail; and

WHEREAS, other portions of 40.510 require a process for obtaining consent for the use of email; and

WHEREAS, this inconsistency and the use of email instead of regular mail unnecessarily created a potential avenue of appeal; and

WHEREAS, staff has been sending an email and regular mail copy of all documents to ensure code requirements are met which over time it will prove to unduly consume staff time, copying costs and mailing costs; and

WHEREAS, a correction to a scrivener's error in 40.510.030.D.6.a was identified while compiling the code changes; and

WHEREAS, the Clark County Development and Engineering Advisory Board reviewed the proposed code amendments on June 3, 2021 and voted unanimously to support the proposal and forward it to the Clark County Planning Commission and Council; and

WHEREAS, the Clark County Planning Commission held a duly noticed work session on June 3, 2021, to review the staff recommendation on the proposed code amendments; and

WHEREAS, the Planning Commission held a duly noticed public hearing on June 17, 2021, at which it considered and deliberated on the staff proposal for these code amendments, adopted a recommendation to the Council regarding the proposed amendments; and

WHEREAS, the County Council desires to correct these inconsistencies and allow the use of either mail or email to send documents during the preliminary development review process; and

WHEREAS, the Council finds that adoption of these code amendments will further the public health, safety and welfare; now, therefore,

BE IT HEREBY ORDERED, RESOLVED, AND DECREED BY THE CLARK COUNTY COUNCIL, CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. Findings. The recitals above are incorporated into this ordinance as findings.

Section 2. Amendatory. Sec. 1 (Exh. A) of Ord. 2003-11-01 as most recently amended by Sec. 21 of Ord. 2019-05-07 and codified as CCC 40.510.010 are each hereby amended as follows:

40.510.010 Type I Process – Ministerial Decisions

A. Review for Counter Complete Status.

1. Before accepting an application for review for fully complete status, and unless otherwise expressly provided by code, the responsible official shall determine the application is counter complete.

2. The responsible official shall decide whether an application is counter complete when the application is submitted, typically "over the counter."
3. In order to review the applicable requirements with the applicant and to expedite the review process, a preliminary review meeting is strongly encouraged prior to submittal of an application for final site plan/final construction plan.
- a. To request a preliminary review meeting, an applicant shall submit a completed form provided by the responsible official for that purpose. The applicant is encouraged to provide in advance or bring to the meeting all available draft application submittal requirements.
- b. The responsible official shall coordinate the involvement of agency staff. Relevant staff shall attend the preliminary review meeting or shall take other steps to fulfill the purposes of the meeting.
- c. If feasible, the preliminary review meeting shall be scheduled not more than fourteen (14) calendar days after the responsible official accepts the request for a preliminary review meeting.
4. An application is counter complete if the responsible official finds that the application purports and appears to include the information required by Section 40.510.010(B); provided, no effort shall be made to evaluate the substantive adequacy of the information in the application in the counter complete review process. Required information which has been waived by the responsible official shall be replaced by a determination from the responsible official granting the waiver.
5. If the responsible official decides the application is counter complete, then the application shall be accepted for review for fully complete status; provided, that for final plat applications, submittal requirements may be requested and reviewed in increments established by the responsible official.
6. If the responsible official decides the application is not counter complete, then the responsible official shall immediately reject and return the application and identify what is needed to make the application counter complete.

(Amended: Ord. 2017-07-04)

B. Review for Fully Complete Status.

1. Except as noted below, before accepting an application for processing, the responsible official shall determine that the application is fully complete.
- a. Final plat applications shall not be deemed fully complete until all of the required materials specified in Section 40.540.070 have been submitted; however, the responsible official may establish application procedures to allow final plat applications to be processed in increments in advance of a fully complete application.
- b. Pursuant to Section 40.510.010(C)(2), applications for approval of final site plan/final construction plan shall be reviewed for completeness and correctness concurrently.
2. The responsible official shall decide whether an application is fully complete subject to the following:
- a. Within twenty-one (21) calendar days after the responsible official determines the application is counter complete; or
- b. Within fourteen (14) calendar days after an application has been resubmitted to the county after the application has been returned to the applicant as being incomplete.
3. An application is fully complete if it includes all the required materials specified in the submittal requirements for the specific development review application being applied for and additional

materials specified in the pre-application conference. If submittal requirements are not specified in the applicable code sections the application is fully complete if it includes the following:

a. A signed statement from the applicant certifying that the application has been made with the consent of the lawful property owner(s) and that all information submitted with the application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request. Submittal of the application gives consent to the county to enter the property(ies) subject to the application;

b. The signature of the property owner or the property owner's authorized representative;

c. A legal description supplied by the Clark County Survey Records Division, a title company, surveyor licensed in the state of Washington, or other party approved by responsible official, and current County Assessor map(s) showing the property(ies) subject to the application;

d. The applicable fee(s) adopted by Council for the application(s) in question;

e. An application shall include all of the information listed as application requirements in the relevant sections of this code.

(1) The responsible official may waive application requirements that are clearly not necessary to show an application complies with relevant criteria and standards and may modify application requirements based on the nature of the proposed application, development, site or other factors. Requests for waivers shall be reviewed as a Type I process before applications are submitted for counter complete review or the application must contain all the required information;

(2) The decision about the fully complete status of an application, including any required engineering, traffic or other studies, shall be based on submittal requirements listed in Section 40.510.050 and other applicable submittal requirements and shall not be based on the quality or technical accuracy of the submittal;

f. Any applicable SEPA document, typewritten or in ink and signed.

4. If the responsible official decides an application is not fully complete, then, within the time provided in Section 40.510.010(B)(2), the responsible official shall send the applicant a written statement indicating that the application is incomplete based on a lack of information and listing what is required to make the application fully complete.

a. The statement shall specify a date by which the required missing information must be provided to restart the fully complete review process pursuant to Section 40.510.010(B)(2)(b). The statement shall state that an applicant can apply to extend the deadline for filing the required information, and explain how to do so.

b. The statement also may include recommendations for additional information that, although not necessary to make the application fully complete, is recommended to address other issues that are or may be relevant to the review.

5. If the required information is not submitted by the date specified and the responsible official has not extended that date, within seven (7) calendar days after that date the responsible official shall take the action in Sections 40.510.010(B)(5)(a), (B)(5)(b) or (B)(5)(c). If the required information is submitted by the date specified, then within fourteen (14) calendar days the responsible official shall decide whether the application is fully complete and, if not, the responsible official shall:

a. Reject and return the application and scheduled fees and ~~((mail))~~ send to the applicant a written statement which lists the remaining additional information needed to make the application fully complete; or

b. Issue a decision denying the application, based on a lack of information; or

c. The responsible official may allow the applicant to restart the fully complete review process a second time by providing the required missing information by a date specified by the responsible official, in which case the responsible official shall retain the application and fee pending expiration of that date or a fully complete review of the application as amended by that date.

If the responsible official decides an application is fully complete, then the responsible official shall begin processing the application pursuant to Section 40.510.010(C).

6. A fully complete determination shall not preclude the county from requesting additional information, studies or changes to submitted information or plans if new information is required or substantial changes to the proposed action occur.

(Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04; Ord. 2019-05-07)

C. Procedure.

1. Except for applications for approval of final site plan/final construction plan, the responsible official shall approve, approve with conditions, or deny the application within twenty-one (21) calendar days after the date the application was accepted as fully complete. An applicant may request in writing to extend the time in which the responsible official shall issue a decision, provided the county receives the request within the twenty-one (21) day period. If the responsible official grants such a request, the responsible official may consider new evidence the applicant introduces with or subsequent to the request.

2. Applications for Approval of Final Site Plan/Final Construction Plan.

a. Initial Review. Initial review shall be completed within twenty-one (21) calendar days of a counter-complete submittal. During the initial review, the plans shall be reviewed for completeness and correctness and the responsible official shall identify errors, omissions or inaccuracies in the application. The submittal shall also be reviewed by county staff for compliance with additional requirements including, but not limited to, wetland review, required dedications, and approval letters from other agencies. County staff shall notify the applicant or the applicant's representative when the reviewed submittal materials are available to be picked up and, unless waived by the responsible official, shall schedule a meeting with the applicant or the applicant's representative to review county staff's comments.

(1) If, after the initial review, the responsible official concludes that the application complies with the requirements of the code the responsible official shall issue a decision pursuant to Section 40.510.010(C)(2)(d).

(2) If, after the initial review, the responsible official concludes that the application does not comply, the applicant shall amend the application and submit the amended application to the county for a second review.

b. Second Review. The second review shall be completed within fourteen (14) calendar days of the submittal of corrected plans. County staff shall notify the applicant or the applicant's representative when the reviewed submittal materials are available.

(1) If, after the second review, the responsible official concludes that the application complies with the requirements of the code, the responsible official shall issue a decision pursuant to Section 40.510.010(C)(2)(d).

(2) If, after the second review, the responsible official concludes that the application does not comply, the applicant shall amend the application and submit the amended application to the county for a third review.

c. Third Review. The third review shall be completed within seven (7) calendar days of the submittal of corrected plans. Upon completion of the third review, the responsible official shall issue a decision pursuant to Section 40.510.010(C)(2)(d).

d. Within five (5) calendar days of the completion of the county's review, the responsible official shall approve or deny the application; provided:

(1) An applicant may request additional reviews (fourth review, etc.). Such a request shall be made in writing and shall be accompanied by the fees required for such additional reviews.

(2) An applicant may request in writing to extend the time in which the responsible official shall issue a decision. The responsible official may consider new evidence the applicant introduces with or after such a written request.

3. Notice of a decision regarding a Type I process shall be ~~((mailed))~~ sent to the applicant and applicant's representative within seven (7) days of the issuance of the decision. The applicant may appeal the decision pursuant to Section 40.510.010(E) or may apply for post-decision changes pursuant to Section 40.520.060.

4. Notice of Agricultural, Forest or Mineral Resource Activities.

a. All plats, building permits or development approvals under this title issued for residential development activities on, or within a radius of five hundred (500) feet for lands zoned agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a notice provided by the responsible official. Such notice shall include the following disclosure:

The subject property is within or near designated agricultural land, forest land or mineral resource land (as applicable) on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

b. In the case of subdivisions or short plats, such notice shall be provided in the Developer Covenants to Clark County; in the case of recorded binding site plans, such notice shall be recorded separately with the County Auditor.

(Amended: Ord. 2005-04-12; Ord. 2016-06-12; Ord. 2017-07-04)

D. Vesting.

1. Type I applications shall be considered under the land development regulations in effect at the time a fully complete application for preliminary approval is filed; provided, an application which is subject to pre-application review shall earlier contingently vest on the date a complete pre-application is filed, which contingent vesting shall become final if a fully complete application for substantially the same proposal is filed within one hundred eighty (180) calendar days of the date the review authority issues its written summary of pre-application review.

2. Special rules apply to certain nonconforming uses under Section 40.530.050.

3. For concurrency approval requirements, see Section 40.350.020.

E. Appeals.

1. Applicability. A final decision regarding an application subject to a Type I procedure may be appealed by any interested party. Final decisions may be appealed only if, within fourteen (14)

calendar days after written notice of the decision is ((mailed)) sent, a written appeal is filed with the responsible official. Final site plan and final construction plan decisions are not subject to administrative appeals under this section.

2. Submittal Requirements. The appeal shall contain the following information:

a. The case number designated by the county and the name of the applicant;

b. The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.020(E)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official. All contact with the responsible official regarding the petition, including notice, shall be with this contact representative;

c. The specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error; and

d. The appeal fee adopted by Council; provided, the fee shall be refunded if the appellant files with the responsible official at least fifteen (15) calendar days before the appeal hearing a written statement withdrawing the appeal.

3. Appeal Decision.

a. The hearing examiner shall hear appeals, other than appeals of final site plan/final construction plan decisions, in a de novo hearing. Notice of an appeal hearing shall be ((mailed)) sent to parties of record, but shall not be posted or published. A staff report shall be prepared, a hearing shall be conducted, and a decision shall be made and noticed and can be appealed as for a Type III process.

b. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant shall have the burden of proving by substantial evidence compliance with applicable approval standards. Where evidence is conflicting, the examiner shall decide an issue based upon the preponderance of the evidence.

(Amended: Ord. 2007-11-13; Ord. 2019-05-07)

Section 3. Amendatory. Sec. 1 (Exh. A) of Ord. 2003-11-01 as most recently amended by Sec. 18 of Ord. 2020-03-01 and codified as CCC 40.510.020 are each hereby amended as follows:

40.510.020 Type II Process – Administrative Decisions

A. Pre-Application Review.

1. The purposes of pre-application review are:

a. To acquaint county staff with a sufficient level of detail about the proposed development to enable staff to advise the applicant accordingly;

b. To acquaint the applicant with the applicable requirements of this code and other law. However, the conference is not intended to provide an exhaustive review of all the potential issues that a given application could raise. The pre-application review does not prevent the county from applying all relevant laws to the application; and

c. To provide an opportunity for other agency staff and the public to be acquainted with the proposed application and applicable law. Although members of the public can attend a pre-application conference, it is not a public hearing, and there is no obligation to receive public testimony or evidence.

2. Pre-application review is required for applications, with the following exceptions:
- a. The application is for one (1) of the following use classifications:
- (1) Section 40.210.010, Forest and Agriculture districts;
 - (2) Section 40.520.020, Planning Director reviews and similar use determinations;
 - (3) Chapter 40.260, special uses (unless specified as a Type III review);
 - (4) Section 40.260.220, temporary permits;
 - (5) Section 40.530.010(F)(6), change in nonconforming use;
 - (6) Section 40.260.210, temporary dwelling permit;
 - (7) Section 40.520.060, post-decision reviews;
 - (8) Section 40.450.040, preliminary (stand-alone) wetland permit;
 - (9) SEPA review for projects that are not otherwise Type II reviews (e.g., grading);
 - (10) Section 40.500.010, interpretations;
 - (11) Section 40.550.020, administrative variances;
 - (12) Section 40.540.120(E)(3), minor plat alterations; or
- b. The applicant applies for and is granted a pre-application waiver from the responsible official. The form shall state that waiver of pre-application review increases the risk the application will be rejected or processing will be delayed. Pre-application review generally should be waived by the responsible official only if the application is relatively simple. The decision regarding a pre-application waiver can be appealed as a Type I decision.
3. To initiate pre-application review, an applicant shall submit a completed form provided by the responsible official for that purpose, the required fee, and all information required by the relevant section(s) of this code. The applicant shall provide the required number of copies of all information as determined by the responsible official.
4. Information not provided on the form shall be provided on the face of the preliminary plat, in an environmental checklist or on other attachments. The responsible official may modify requirements for pre-application materials and may conduct a pre-application review with less than all of the required information. However, failure to provide all of the required information may prevent the responsible official from identifying all applicable issues or providing the most effective pre-application review and will preclude contingent vesting under Section 40.510.020(G). Review for completeness will not be conducted by staff at the time of submittal and it is the responsibility of the applicant.
5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the responsible official shall ~~((mail))~~ send written notice to the applicant and to other interested agencies and parties, including the neighborhood association in whose area the property in question is situated. The notice shall state the date, time and location of the pre-application conference, the purposes of pre-application review, and the nature of the proposal.
6. The responsible official shall coordinate the involvement of agency staff responsible for planning, development review, roads, drainage, parks and other subjects, as appropriate, in the pre-application review process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the purposes of pre-application review.

311 7. The pre-application conference shall be scheduled at least five (5) calendar days after the
312 notice is mailed but not more than twenty-eight (28) calendar days after the responsible official
313 accepts the application for pre-application review. The responsible official shall reschedule the
314 conference and give new notice if the applicant or applicant's representative cannot or does not
315 attend the conference when scheduled.

316 8. Within seven (7) calendar days after the date of the pre-application conference, the responsible
317 official shall ~~((mail))~~ send to the applicant and to other parties who ~~((sign a register provided for such-~~
318 ~~purpose at the pre-application))~~ attend the conference or who otherwise request it in writing, a written
319 summary of the pre-application review. ~~((The summary may be e-mailed instead of mailed to the-~~
320 ~~applicant and other parties should they consent to this method.))~~ The written summary generally shall
321 do the following to the extent possible given the information provided by the applicant:

322 a. Summarize the proposed application(s);

323 b. Identify the relevant approval criteria and development standards in this code or other
324 applicable law and exceptions, adjustments or other variations from applicable criteria or
325 standards that may be necessary;

326 c. Evaluate information the applicant offered to comply with the relevant criteria and
327 standards, and identify specific additional information that is needed to respond to the relevant
328 criteria and standards or is recommended to respond to other issues;

329 d. Identify applicable application fees in effect at the time, with a disclaimer that fees may
330 change;

331 e. Identify information relevant to the application that may be in the possession of the county
332 or other agencies of which the county is aware, such as:

333 (1) Comprehensive plan map designation and zoning on and in the vicinity of the property
334 subject to the application;

335 (2) Physical development limitations, such as steep or unstable slopes, wetlands,
336 wellhead protection areas, water bodies, or special flood hazard areas, that exist on and in
337 the vicinity of the property subject to the application;

338 (3) Those public facilities that will serve the property subject to the application, including
339 fire services, roads, storm drainage, and, if residential, parks and schools, and relevant
340 service considerations, such as minimum access and fire flow requirements or other
341 minimum service levels and impact fees; and

342 (4) Other applications that have been approved or are being considered for land in the
343 vicinity of the property subject to the proposed application that may affect or be affected by
344 the proposed application.

345 f. Where applicable, indicate whether the pre-application submittal was complete so as to
346 trigger contingent vesting under Section 40.510.020(G).

347 9. An applicant may submit a written request for a second pre-application conference within one
348 (1) calendar year after an initial pre-application conference. There is no additional fee for a second
349 conference if the proposed development is substantially similar to the one reviewed in the first pre-
350 application conference or if it reflects changes based on information received at the first pre-
351 application conference. A request for a second pre-application conference shall be subject to the
352 same procedure as the request for the initial pre-application conference.

353 10. A new request for or waiver of a pre-application review for a given development shall be filed
354 unless the applicant submits a fully complete application that the responsible official finds is

substantially similar to the subject of a pre-application review within one (1) calendar year after the last pre-application conference or after approval of waiver of pre-application review.

(Amended: Ord. 2005-04-12; Ord. 2006-05-01; Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2009-07-01; Ord. 2010-08-06; Ord. 2017-07-04; Ord. 2020-03-01)

B. Review for Counter Complete Status.

1. Before accepting an application for review for fully complete status, and unless otherwise expressly provided by code, the responsible official shall determine the application is counter complete.

2. The responsible official shall decide whether an application is counter complete when the application is accepted, typically "over the counter."

3. An application is counter complete if the responsible official finds that the application purports and appears to include the information required by Section 40.510.020(C); provided, no effort shall be made to evaluate the substantive adequacy of the information in the application in the counter complete review process. Required information which has been waived by the responsible official shall be replaced by a determination from the responsible official granting the waiver.

4. If the responsible official decides the application is counter complete, then the application shall be accepted for review for fully complete status.

5. If the responsible official decides the application is not counter complete, then the responsible official shall immediately reject and return the application and identify what is needed to make the application counter complete.

(Amended: Ord. 2017-07-04)

C. Review for Fully Complete Status.

1. Before accepting an application for processing, the responsible official shall determine that the application is fully complete.

2. The responsible official shall decide whether an application is fully complete subject to the following:

a. Within twenty-one (21) calendar days after the responsible official determines the application is counter complete; or

b. Within fourteen (14) calendar days after an application has been resubmitted to the county after the application has been returned to the applicant as being incomplete.

3. An application is fully complete if it includes all the required materials specified in the submittal requirements for the specific development review application being applied for and additional materials specified in the pre-application conference. If submittal requirements are not specified in the applicable code sections the application is fully complete if it includes the following:

a. A signed statement from the applicant certifying that the application has been made with the consent of the lawful property owner(s) and that all information submitted with the application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request. Submittal of the application gives consent to the county to enter the property(ies) subject to the application;

b. The signature of the property owner or the property owner's authorized representative;

c. A legal description supplied by the Clark County Survey Records Division, a title company, surveyor licensed in the state of Washington, or other party approved by the responsible official, and current County Assessor map(s) showing the property(ies) subject to the application;

d. A current County Assessor map(s) showing the property(ies) within a radius of the subject site as required in Section 40.510.020(E);

e. Unless the responsible official has waived the pre-application conference or a pre-application conference was not required pursuant to Section 40.510.020(A)(2), a copy of the pre-application conference summary, and information required by the pre-application conference summary, unless not timely prepared as required by Section 40.510.020(A)(8);

f. The applicable fee(s) adopted by Council for the application(s) in question;

g. An application shall include all of the information listed as application requirements in the relevant sections of this code.

(1) The responsible official may waive application requirements that are clearly not necessary to show an application complies with relevant criteria and standards and may modify application requirements based on the nature of the proposed application, development, site or other factors. Requests for waivers shall be reviewed as a Type I process before applications are submitted for counter complete review or the application must contain all the required information;

(2) The decision about the fully complete status of an application, including any required engineering, traffic or other studies, shall be based on the criteria for completeness as established by the responsible official and shall not be based on differences of opinion as to quality or accuracy;

h. Any applicable SEPA document, typewritten or in ink and signed.

4. If the responsible official decides an application is not fully complete, then, within the time provided in Section 40.510.020(C)(2), the responsible official shall send the applicant a written statement indicating that the application is incomplete based on a lack of information and listing what is required to make the application fully complete.

a. The statement shall specify a date by which the required missing information must be provided to restart the fully complete review process pursuant to Section 40.510.020(C)(2)(b). The statement shall state that an applicant can apply to extend the deadline for filing the required information, and explain how to do so.

b. The statement also may include recommendations for additional information that, although not necessary to make the application fully complete, is recommended to address other issues that are or may be relevant to the review.

5. If the required information is not submitted by the date specified and the responsible official has not extended that date, within seven (7) calendar days after that date the responsible official shall take the action in Section 40.510.020(C)(5)(a), (C)(5)(b) or (C)(5)(c). If the required information is submitted by the date specified, then within fourteen (14) calendar days the responsible official shall decide whether the application is fully complete and, if not, the responsible official shall:

a. Reject and return the application and scheduled fees and ~~((mail))~~ send to the applicant a written statement which lists the remaining additional information needed to make the application fully complete; or

b. Issue a decision denying the application, based on a lack of information; provided, the responsible official may allow the applicant to restart the fully complete review process a second time by providing the required missing information by a date specified by the responsible official,

in which case the responsible official shall retain the application and fee pending expiration of that date or a fully complete review of the application as amended by that date.

6. If the responsible official decides an application is fully complete, then the responsible official shall, within fourteen (14) calendar days of making this determination:

- a. Forward the application to the county staff responsible for processing it;
- b. Send a written notice of receipt of a complete application to the applicant acknowledging acceptance, listing the name and telephone number of a contact person for the responsible official, and describing the expected review schedule;
- c. Prepare a public notice in accordance with Section 40.510.020(E).

7. An application shall be determined fully complete if a written determination has not been ~~((mailed))~~ sent to the applicant within twenty-eight (28) calendar days of the date the application is submitted. An application shall be determined fully complete if a written determination has not been ~~((mailed))~~ sent to the applicant within fourteen (14) calendar days of the date that the necessary additional information is submitted.

8. A fully complete determination shall not preclude the county from requesting additional information, studies or changes to submitted information or plans if new information is required or substantial changes to the proposed action occur.

(Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04; Ord. 2019-05-07)

D. Procedure.

1. Within fourteen (14) calendar days after the date an application is accepted as fully complete, the responsible official for the application shall issue a public notice of the application pending review consistent with the requirements of Section 40.510.020(E).

2. The responsible official shall ~~((mail))~~ send to the applicant a copy of comments timely received in response to the notice together with a statement that the applicant may respond to the comments within fourteen (14) calendar days from the date the comments are ~~((mailed))~~ sent. The responsible official shall consider the comments timely received in response to the notice and timely responses by the applicant to those comments. The responsible official may consider comments and responses received after the deadline for filing.

3. A decision shall be made within the timelines specified by Section 40.510.020(F), and shall include:

- a. A statement of the applicable criteria and standards in this code and other applicable law;
- b. A statement of the facts that the responsible official found showed the application does or does not comply with each applicable approval criterion and assurance of compliance with applicable standards;
- c. The reasons for a conclusion to approve or deny; and
- d. The decision to deny or approve the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with applicable law.

4. Within seven (7) calendar days of the decision, the responsible official shall ~~((mail))~~ send a notice of decision to the applicant and applicant's representative, the neighborhood association in whose area the property in question is situated, and all parties of record regarding the application. The ~~((mailing shall include a))~~ notice ~~((which))~~ shall include(s) the following information:

a. A statement that the decision and SEPA determination are final, but may be appealed as provided in Section 40.510.020(H) to the hearing examiner within fourteen (14) calendar days after the notice of decision. The appeal closing date shall be listed in boldface type. The statement shall describe how a party may appeal the decision or SEPA determination or both, including applicable fees and the elements of an appeal statement; and

b. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for review. The notice shall list the place, days and times where the case file is available and the name and telephone number of the county representative to contact about reviewing the case file.

5. Notice of Agricultural, Forest or Mineral Resource Activities.

a. All plats, building permits or development approvals under this title issued for residential development activities on, or within a radius of five hundred (500) feet for lands zoned agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a notice provided by the responsible official. Such notice shall include the following disclosure:

The subject property is within or near designated agricultural land, forest land or mineral resource land (as applicable) on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

b. In the case of subdivisions or short plats, such notice shall be provided in the Developer Covenants to Clark County; in the case of recorded binding site plans, such notice shall be recorded separately with the County Auditor.

(Amended: Ord. 2005-04-12; Ord. 2016-06-12; Ord. 2017-07-04)

E. Public Notice.

1. The notice of the application shall include the following information, to the extent known:

a. The project name, the case file number(s), date of application, the date the application was determined fully complete, and the date the notice is sent;

b. A description of the proposed project and a list of project permits included with the application;

c. A statement of the public comment period, that the public has the right to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A statement shall indicate that written comments received by the county within fifteen (15) calendar days from the date of the notice will be considered;

d. The deadline for submitting a SEPA appeal pursuant to Section 40.570.080(D);

e. A statement of the preliminary SEPA determination, if one has been made;

f. A list of applicable code sections;

g. The name of the applicant or applicant's representative and the name, address and telephone number of a contact person for the applicant, if any;

h. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location and zoning;

- 524 i. A map showing the subject property in relation to other properties or a reduced copy of the
525 site plan;
- 526 j. The date, place and times where information about the application may be examined and
527 the name and telephone number of the county representative to contact about the application;
528 and
- 529 k. Any additional information determined appropriate by the county.
- 530 2. Distribution.
- 531 a. The responsible official shall ~~((mail))~~ send a copy of the notice to:
- 532 (1) The applicant and the applicant's representative;
- 533 (2) The neighborhood association in whose area the property in question is situated,
534 based on the list of neighborhood associations kept by the responsible official and known
535 interest groups;
- 536 (3) Owners of property within a radius of three hundred (300) feet of the property that is
537 the subject of the application if the subject property is inside the urban growth boundary or to
538 owners or property within a radius of five hundred (500) feet of the property if the subject
539 property is outside the urban growth boundary;
- 540 (a) The records of the County Assessor shall be used for determining the property
541 owner of record. The failure of a property owner to receive notice shall not affect the
542 decision if the notice was sent. A sworn certificate of mailing executed by the person
543 who did the mailing shall be evidence that notice was mailed to parties listed or
544 referenced in the certificate, and
- 545 (b) If the applicant owns property adjoining the property that is the subject of the
546 application, then notice shall be mailed to owners of property within a three hundred
547 (300) or five hundred (500) foot radius, as provided in this subdivision, of the edge of
548 the property owned by the applicant adjoining the property that is the subject of the
549 application;
- 550 (4) Agencies with jurisdiction; and
- 551 (5) To other people the responsible official believes may be affected by the proposed
552 action or who request such notice in writing.
- 553 (Amended: Ord. 2007-06-05)
- 554 F. Decision Timelines.
- 555 Not more than seventy-eight (78) calendar days after the date an application is determined fully
556 complete, the responsible official shall issue a written decision regarding the application(s); provided:
- 557 1. If a determination of significance (DS) is issued, then the responsible official shall issue a
558 decision not sooner than seven (7) calendar days after a final environmental impact statement is
559 issued.
- 560 2. An applicant may request in writing to extend the time in which the responsible official shall
561 issue a decision. If the responsible official grants such a request, the responsible official may
562 consider new evidence the applicant introduces with or subsequent to the request.
- 563 3. In determining the number of days that have elapsed after the county has notified the applicant
564 that the application is fully complete, the following periods shall be excluded:

a. Any period during which the applicant has been requested by the county to correct plans, perform required studies, or provide additional required information. The responsible official shall specify a time period based on the complexity of the required information in which the required information must be submitted. The period shall be calculated from the date the county notifies the applicant of the need for additional information until the earlier of the date the county determines whether the additional information satisfies the request for information or fourteen (14) calendar days after the date the information has been provided to the county.

b. If the county determines that the information submitted by the applicant under Section 40.510.020(F)(3)(a) is insufficient, it shall notify the applicant of the deficiencies and the procedures under Section 40.510.020(F)(3)(a) shall apply as if a new request for studies had been made.

c. Any period of time during which an environmental impact statement is being prepared; provided, that the maximum time allowed to prepare an environmental impact statement shall be one (1) year from the issuance of the determination of significance unless the responsible official and applicant have otherwise agreed in writing to a longer period of time. If no mutual written agreement is completed, then the application shall become null and void after the one (1) year period unless the responsible official determines that delay in completion is due to factors beyond the control of the applicant.

G. Vesting.

1. Type II applications shall be considered under the development regulations in effect at the time a fully complete application for preliminary approval is filed.

2. Contingent Vesting. An application which is subject to pre-application review shall earlier contingently vest on the date a fully complete pre-application is submitted. This vesting shall become final if a fully complete application for substantially the same proposal is submitted within one hundred eighty (180) calendar days of the date the responsible official issues its written summary of pre-application review subject to the limitations of Section 40.510.020(A)(4). Requests to waive contingent vesting rights by the applicant shall be approved, subject to the request being submitted in writing and submitted as part of the full application package.

3. Special rules apply to certain nonconforming uses under Section 40.530.050.

4. For concurrency approval requirements, see Section 40.350.020.

(Amended: Ord. 2007-06-05)

H. Appeals.

1. Applicability. A final decision may be appealed only by a party of record. Final decisions may be appealed if, within fourteen (14) calendar days after written notice of the decision is ~~((mailed))~~ sent, a written appeal is filed with the responsible official.

2. Submittal Requirements. The appeal shall contain the following information:

a. The case number designated by the county and the name of the applicant;

b. The name of each petitioner, the signature of each petitioner or his or her duly authorized representative, and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.020(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official. All contact with the responsible official regarding the petition, including notice, shall be with this contact representative;

c. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error; and

d. The appeal fee adopted by Council; provided, the scheduled fee shall be refunded if the applicant files with the responsible official at least fifteen (15) calendar days before the appeal hearing a written statement withdrawing the appeal.

3. Appeal Procedures.

a. The hearing examiner shall hear appeals in a de novo hearing. Notice of an appeal hearing shall be ~~be((mailed))~~ sent to parties of record, but shall not be posted or published. A staff report shall be prepared, a hearing shall be conducted, and a decision shall be made and noticed. The decision can be appealed under a Type III process.

b. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant shall have the burden of proving by substantial evidence compliance with applicable approval standards. Where evidence is conflicting, the examiner shall decide an issue based upon the preponderance of the evidence.

(Amended: Ord. 2005-10-04; Ord. 2007-11-13; Ord. 2019-05-07)

Section 4. Amendatory. Sec. 1 (Exh. A) of Ord. 2003-11-01 as most recently amended by Sec. 23 of Ord. 2019-0507 and codified as CCC 40.510.030 are each hereby amended as follows:

40.510.030 Type III Process – Quasi-Judicial Decisions

A. Pre-Application Review.

1. The purposes of pre-application review are:

a. To acquaint county staff with a sufficient level of detail about the proposed development to enable staff to advise the applicant accordingly;

b. To acquaint the applicant with the applicable requirements of this code and other law. However, the conference is not intended to provide an exhaustive review of all the potential issues that a given application could raise. The pre-application review does not prevent the county from applying all relevant laws to the application; and

c. To provide an opportunity for other agency staff and the public to be acquainted with the proposed application and applicable law. Although members of the public can attend a pre-application conference, it is not a public hearing, and there is no obligation to receive public testimony or evidence.

2. Pre-application review is required for applications, with the following exceptions:

a. The application is for a post-decision review, as described in Section 40.520.060; or

b. The applicant applies for and is granted a pre-application waiver from the responsible official. The form shall state that waiver of pre-application review increases the risk the application will be rejected or processing will be delayed. Pre-application review generally should be waived by the responsible official only if the application is relatively simple. The decision to waive a pre-application can be appealed as a Type I decision.

3. To initiate pre-application review, an applicant shall submit a completed form provided by the responsible official for that purpose, the required fee, and all information required by the relevant section(s) of this code. The applicant shall provide the required number of copies of all information as determined by the responsible official.

4. Information not provided on the form shall be provided on the face of the preliminary plat, in an environmental checklist or on other attachments. The responsible official may modify requirements for pre-application materials and may conduct a pre-application review with less than all of the required information. However, failure to provide all of the required information may prevent the responsible official from identifying all applicable issues or providing the most effective pre-application review and will preclude contingent vesting under Section 40.510.030(G). Review for completeness will not be conducted by staff at the time of submittal and it is the responsibility of the applicant.

5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the responsible official shall ~~((mail))~~ send written notice to the applicant and to other interested agencies and parties, including the neighborhood association in whose area the property in question is situated. The notice shall state the date, time and location of the pre-application conference, the purposes of pre-application review, and the nature of the conference.

6. The responsible official shall coordinate the involvement of agency staff responsible for planning, development review, roads, drainage, parks and other subjects, as appropriate, in the pre-application review process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the purposes of pre-application review.

7. The pre-application conference shall be scheduled at least five (5) calendar days after the notice is ~~((mailed))~~ sent but not more than twenty-eight (28) calendar days after the responsible official accepts the application for pre-application review. The responsible official shall reschedule the conference and give new notice if the applicant or applicant's representative cannot or does not attend the conference when scheduled.

8. Within seven (7) calendar days after the date of the pre-application conference, the responsible official shall ~~((mail))~~ send to the applicant and to other parties who ~~((sign a register provided for such purpose at))~~ attend the pre-application conference or who otherwise request it in writing, a written summary of the pre-application review. ~~((The summary may be e-mailed instead of mailed to the applicant and other parties should they consent to this method.))~~ The written summary generally shall do the following to the extent possible given the information provided by the applicant:

a. Summarize the proposed application(s);

b. Identify the relevant approval criteria and development standards in this code or other applicable law and exceptions, adjustments or other variations from applicable criteria or standards that may be necessary;

c. Evaluate information the applicant offered to comply with the relevant criteria and standards, and identify specific additional information that is needed to respond to the relevant criteria and standards or is recommended to respond to other issues;

d. Identify applicable application fees in effect at the time, with a disclaimer that fees may change;

e. Identify information relevant to the application that may be in the possession of the county or other agencies of which the county is aware, such as:

(1) Comprehensive plan map designation and zoning on and in the vicinity of the property subject to the application;

(2) Physical development limitations, such as steep or unstable slopes, wetlands, well head protection areas, water bodies, or special flood hazard areas, that exist on and in the vicinity of the property subject to the application;

695 (3) Those public facilities that will serve the property subject to the application, including
696 fire services, roads, storm drainage, and, if residential, parks and schools, and relevant
697 service considerations, such as minimum access and fire flow requirements or other
698 minimum service levels and impact fees; and

699 (4) Other applications that have been approved or are being considered for land in the
700 vicinity of the property subject to the proposed application that may affect or be affected by
701 the proposed application.

702 f. Where applicable, indicate whether the pre-application submittal was complete so as to
703 trigger contingent vesting under Section 40.510.030(G).

704 9. An applicant may submit a written request for a second pre-application conference within one
705 (1) calendar year after an initial pre-application conference. There is no additional fee for a second
706 conference if the proposed development is substantially similar to the one reviewed in the first pre-
707 application conference or if it reflects changes based on information received at the first pre-
708 application conference. A request for a second pre-application conference shall be subject to the
709 same procedure as the request for the initial pre-application conference.

710 10. A request for or waiver of a pre-application review for a given development shall be filed
711 unless the applicant submits a fully complete application that the responsible official finds is
712 substantially similar to the subject of a pre-application review within one (1) calendar year after the
713 last pre-application conference or after approval of waiver of pre-application review.

714 (Amended: Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2017-07-04)

715 B. Review for Counter Complete Status.

716 1. Before accepting an application for review for fully complete status, and unless otherwise
717 expressly provided by code, the responsible official shall determine the application is counter
718 complete.

719 2. The responsible official shall decide whether an application is counter complete when the
720 application is accepted, typically "over the counter."

721 3. An application is counter complete if the responsible official finds that the application purports
722 and appears to include the information required by Section 40.510.030(C)(3); provided, no effort shall
723 be made to evaluate the substantive adequacy of the information in the application in the counter
724 complete review process. Required information which has been waived by the responsible official
725 shall be replaced by a determination from the responsible official granting the waiver.

726 4. If the responsible official decides the application is counter complete, then the application shall
727 be accepted for review for fully complete status.

728 5. If the responsible official decides the application is not counter complete, then the responsible
729 official shall immediately reject and return the application and identify what is needed to make the
730 application counter complete.

731 (Amended: Ord. 2017-07-04)

732 C. Review for Fully Complete Status.

733 1. Before accepting an application for processing, the responsible official shall determine that the
734 application is fully complete.

735 2. The responsible official shall decide whether an application is fully complete subject to the
736 following:

737 a. Within twenty-one (21) calendar days after the responsible official determines the
738 application is counter complete; or

739 b. Within fourteen (14) calendar days after an application has been resubmitted to the county
740 after the application has been returned to the applicant as being incomplete.

741 3. An application is fully complete if it includes all the required materials specified in the submittal
742 requirements for the specific development review application being applied for and additional
743 materials specified in the pre-application conference. If submittal requirements are not specified in
744 the applicable code sections the application is fully complete if it includes the following:

745 a. A signed statement from the applicant certifying that the application has been made with
746 the consent of the lawful property owner(s) and that all information submitted with the application
747 is complete and correct. False statements, errors, and/or omissions may be sufficient cause for
748 denial of the request. Submittal of the application gives consent to the county to enter the
749 property(ies) subject to the application;

750 b. The signature of the property owner or the property owner's authorized representative;

751 c. A written narrative that addresses the following:

752 (1) How the application meets or exceeds each of the applicable approval criteria and
753 standards; and

754 (2) How the issues identified in the pre-application conference have been addressed, and
755 generally, how services will be provided to the site;

756 d. A current County Assessor map(s) showing the property(ies) within a radius of the subject
757 site as required in Sections 40.510.030(E);

758 e. A legal description supplied by the Clark County Survey Records Division, a title company,
759 surveyor licensed in the state of Washington, or other party approved by the responsible official,
760 and current County Assessor map(s) showing the property(ies) subject to the application;

761 f. Unless the responsible official has waived the pre-application conference, a copy of the
762 pre-application conference summary, and information required by the pre-application conference
763 summary, unless not timely prepared as required by Section 40.510.030(A)(7);

764 g. A preliminary site plan or plat that shows existing conditions and proposed improvements;

765 h. The applicable fee(s) adopted by Council for the application(s) in question;

766 i. Any applicable SEPA document, typewritten or in ink and signed.

767 4. An application shall include all of the information listed as application requirements in the
768 relevant sections of this code.

769 a. The responsible official may waive application requirements that are clearly not necessary
770 to show an application complies with relevant criteria and standards and may modify application
771 requirements based on the nature of the proposed application, development, site or other
772 factors. Requests for waivers shall be reviewed as a Type I process before applications are
773 submitted for counter complete review or the application must contain all the required
774 information;

775 b. The decision about the fully complete status of an application, including any required
776 engineering, traffic or other studies, shall be based on the criteria for completeness and
777 methodology set forth in this code or in implementing measures timely adopted by the
778 responsible official and shall not be based on differences of opinion as to quality or accuracy.

5. If the responsible official decides an application is not fully complete, then, within the time provided in Section 40.510.030(C)(2), the responsible official shall send the applicant a written statement indicating that the application is incomplete based on a lack of information and listing what is required to make the application fully complete.

a. The statement shall specify a date by which the required missing information must be provided to restart the fully complete review process pursuant to Section 40.510.030(C)(2)(b). The statement shall state that an applicant can apply to extend the deadline for filing the required information, and explain how to do so.

b. The statement also may include recommendations for additional information that, although not necessary to make the application fully complete, is recommended to address other issues that are or may be relevant to the review.

6. If the required information is not submitted by the date specified and the responsible official has not extended that date, within seven (7) calendar days after that date the responsible official shall take the action in Section 40.510.030(C)(6)(a) or (C)(6)(b). If the required information is submitted by the date specified, then within fourteen (14) calendar days the responsible official shall decide whether the application is fully complete and, if not, the responsible official shall:

a. Reject and return the application and scheduled fees and ~~((mail))~~ send to the applicant a written statement which lists the remaining additional information needed to make the application fully complete; or

b. Issue a decision denying the application, based on a lack of information; provided, the responsible official may allow the applicant to restart the fully complete review process a second time by providing the required missing information by a date specified by the responsible official, in which case the responsible official shall retain the application and fee pending expiration of that date or a fully complete review of the application as amended by that date.

7. If the responsible official decides an application is fully complete, then the responsible official shall, within fourteen (14) calendar days of making this determination:

a. Forward the application to the county staff responsible for processing it, and schedule public hearing;

b. Send a written notice of receipt of a complete application to the applicant acknowledging acceptance, listing the name and telephone number of a contact person at the review authority, and describing the expected review schedule, including the date of a hearing for a Type III process;

c. Prepare a public notice in accordance with Section 40.510.030(E).

8. An application shall be determined fully complete if a written determination has not been ~~((mailed))~~ sent to the applicant within twenty-eight (28) calendar days of the date the application is submitted. An application shall be determined fully complete if a written determination has not been ~~((mailed))~~ sent to the applicant within fourteen (14) calendar days of the date that the necessary additional information is submitted.

9. A fully complete determination shall not preclude the county from requesting additional information, studies or changes to submitted information or plans if new information is required or substantial changes to the proposed action occur.

(Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04; Ord. 2019-05-07)

D. Procedure.

822 1. At least one (1) public hearing before the hearing examiner is required. The public hearing
823 should be held within seventy-eight (78) calendar days after the date the responsible official issues
824 the determination that the application is fully complete.

825 2. At least fifteen (15) calendar days before the date of a hearing, the responsible official shall
826 issue a public notice of the hearing consistent with the requirements in Section 40.510.030(E).

827 3. At least fifteen (15) calendar days before the date of the hearing for an application(s), the
828 responsible official shall issue a written staff report and recommendation regarding the application(s),
829 shall make available to the public a copy of the staff report for review and inspection, and shall
830 ((~~mail~~)) send a copy of the staff report and recommendation without charge to the hearing examiner
831 and to the applicant and applicant's representative. The responsible official shall ((~~mail~~)) send or
832 provide a copy of the staff report at reasonable charge to other parties who request it.

833 4. Public hearings shall be conducted in accordance with the rules of procedure adopted by the
834 hearing examiner, except to the extent waived by the hearing examiner. A public hearing shall be
835 recorded electronically.

836 a. At the beginning of a hearing or agenda of hearings, the hearing examiner shall:

837 (1) State that testimony will be received only if it is relevant to the applicable approval
838 criteria and development standards and is not unduly repetitious;

839 (2) Identify the applicable approval criteria and development standards;

840 (3) State that the hearing examiner will consider any party's request that the hearing be
841 continued or that the record be kept open for a period of time and may grant or deny that
842 request;

843 (4) State that the hearing examiner must be impartial and whether the hearing examiner
844 has had any ex parte contact or has any personal or business interest in the application. The
845 hearing examiner shall afford parties an opportunity to challenge the impartiality of the
846 authority;

847 (5) State whether the hearing examiner has visited the site;

848 (6) State that persons who want to receive notice of the decision may sign a list for that
849 purpose at the hearing and where that list is kept; and

850 (7) Summarize the conduct of the hearing.

851 b. At the conclusion of the hearing on each application, the hearing examiner shall announce
852 one (1) of the following actions:

853 (1) That the hearing is continued. If the hearing is continued to a place, date and time
854 certain, then additional notice of the continued hearing is not required to be mailed, published
855 or posted. If the hearing is not continued to a place, date and time certain, then notice of the
856 continued hearing shall be given as though it was the initial hearing. The hearing examiner
857 shall adopt guidelines for reviewing requests for continuances;

858 (2) That the public record is held open to a date and time certain. The hearing examiner
859 shall state where additional written evidence and testimony can be sent, and shall announce
860 any limits on the nature of the evidence that will be received after the hearing. The hearing
861 examiner may adopt guidelines for reviewing requests to hold open the record;

862 (3) That the application(s) is/are taken under advisement, and a final order will be issued
863 as provided in Section 40.510.030(D)(6); or

864 (4) That the application(s) is/are denied, approved or approved with conditions, together
865 with a brief summary of the basis for the decision, and that a final order will be issued as
866 provided in Section 40.510.030(D)(5).

867 5. Unless the applicant agrees to allow more time, within fourteen (14) calendar days after the
868 date the record closes, the hearing examiner shall issue a written decision regarding the
869 application(s); provided, the hearing examiner shall not issue a written decision regarding the
870 application(s) until at least fifteen (15) calendar days after the threshold determination under Chapter
871 40.570 is made. The decision shall include:

872 a. A statement of the applicable criteria and standards in this code and other applicable law;

873 b. A statement of the facts that the hearing examiner found showed the application does or
874 does not comply with each applicable approval criterion and standards;

875 c. The reasons for a conclusion to approve or deny; and

876 d. The decision to deny or approve the application and, if approved, any conditions of
877 approval necessary to ensure the proposed development will comply with applicable criteria and
878 standards.

879 6. Within seven (7) calendar days from the date of the decision, the responsible official shall ~~((mail~~
880 ~~via regular mail, or by e-mail if the receiving party agrees to this method,))~~ send the notice of decision
881 to the applicant and applicant's representative, the neighborhood association in whose area the
882 property in question is situated, and all parties of record. The ~~((mailing shall include a))~~ notice
883 ~~((which)) shall include((s))~~ the following information:

884 a. A statement that the decision and SEPA determination, if applicable, are final, but may be
885 appealed as provided in Section 40.510.030~~((H I) to Council))~~ within fourteen (14) calendar days
886 after the date the notice is ~~((mailed))~~ sent. The appeal closing date shall be listed in boldface
887 type. The statement shall describe how a party may appeal the decision or SEPA determination,
888 or both, including applicable fees and the elements of a petition for review;

889 b. A statement that the complete case file is available for review. The statement shall list the
890 place, days and times where the case file is available and the name and telephone number of
891 the county representative to contact for information about the case.

892 7. Notice of Agricultural, Forest or Mineral Resource Activities.

893 a. All plats, building permits or development approvals under this title issued for residential
894 development activities on, or within a radius of five hundred (500) feet for lands zoned
895 agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining
896 (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a
897 notice provided by the responsible official. Such notice shall include the following disclosure:

898 The subject property is within or near designated agricultural land, forest land or mineral resource land
899 (as applicable) on which a variety of commercial activities may occur that are not compatible with
900 residential development for certain periods of limited duration. Potential discomforts or inconveniences
901 may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery
902 (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the
903 application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

904 b. In the case of subdivisions or short plats, such notice shall be provided in the Developer
905 Covenants to Clark County; in the case of recorded binding site plans, such notice shall be
906 recorded separately with the County Auditor.

907 (Amended: Ord. 2005-04-12; Ord. 2008-06-02; Ord. 2016-06-12; Ord. 2017-07-04;
908 Ord. 2019-05-07)

- 909 E. Public Notice.
- 910 1. The notice of the application shall include the following information, to the extent known:
- 911 a. The project name, the case file number(s), date of application, the date the application was
912 determined fully complete, and the date the notice is sent;
- 913 b. A description of the proposed project and a list of project permits included with the
914 application;
- 915 c. A description of the site, including current zoning and nearest road intersections,
916 reasonably sufficient to inform the reader of its location and zoning;
- 917 d. A map showing the subject property in relation to other properties or a reduced copy of the
918 site plan;
- 919 e. The name of the applicant or applicant's representative and the name, address and
920 telephone number of a contact person for the applicant, if any;
- 921 f. A list of applicable code sections;
- 922 g. A statement of the public comment period, that the public has the right to comment on the
923 application, receive notice of and participate in any hearings, request a copy of the decision
924 once made, and any appeal rights. A statement shall indicate that written comments received by
925 the county within fifteen (15) calendar days from the date of the notice will be considered by staff
926 in their recommendations;
- 927 h. The date, time, place and type of hearing;
- 928 i. A statement of the preliminary SEPA determination, if one has been made;
- 929 j. A statement that a consolidated staff report and SEPA review will be available for
930 inspection at least fifteen (15) calendar days before the public hearing, and the deadline for
931 submitting written comments;
- 932 k. The deadline for submitting a SEPA appeal pursuant to Section 40.570.080(D);
- 933 l. The date, place and times where information about the application may be examined and
934 the name and telephone number of the county representative to contact about the application;
- 935 m. The designation of the hearing examiner as the review authority, and a statement that the
936 hearing will be conducted in accordance with the rules of procedure adopted by the hearing
937 examiner; and
- 938 n. Any additional information determined appropriate by the county.
- 939 2. Where the notice of application under Section 40.510.030(E)(1) is incomplete, a separate
940 notice of public hearing shall be provided which is consistent with Section 40.510.030(E)(3).
- 941 3. Distribution.
- 942 a. The responsible official shall mail a copy of the notice to:
- 943 (1) The applicant and the applicant's representative;
- 944 (2) The neighborhood association in whose area the property in question is situated,
945 based on the list of neighborhood associations kept by the responsible official;

946 (3) Owners of property within a radius of three hundred (300) feet of the property that is
 947 the subject of the application if the subject property is inside the urban growth boundary or to
 948 owners or property within a radius of five hundred (500) feet of the property if the subject
 949 property is outside the urban growth boundary;

950 (a) The records of the County Assessor shall be used for determining the property
 951 owner of record. The failure of a property owner to receive notice shall not affect the
 952 decision if the notice was sent. A sworn certificate of mailing executed by the person
 953 who did the mailing shall be evidence that notice was mailed to parties listed or
 954 referenced in the certificate, and

955 (b) If the applicant owns property adjoining the property that is the subject of the
 956 application, then notice shall be mailed to owners of property within a three hundred
 957 (300) or five hundred (500) foot radius, as provided in this subdivision, of the edge of
 958 the property owned by the applicant adjoining or contiguous to the property that is the
 959 subject of the application;

960 (4) Agencies with jurisdiction; and

961 (5) To known interest groups and other people the responsible official believes may be
 962 affected by the proposed action or who request such notice in writing.

963 b. The county shall publish in a newspaper of general circulation a summary of the notice,
 964 including the date, time and place of the hearing, the nature and location of the proposal and
 965 instructions for obtaining further information.

966 c. Except for plat alteration applications that have been elevated to Type III applications, and
 967 shorelines permits, the applicant shall post one (1) four (4) foot by eight (8) foot sign board on
 968 the property subject to the development application as follows:

969 (1) Location. The board shall be installed at the midpoint along the site street frontage at a
 970 location five (5) feet inside the property line, or as otherwise directed by the responsible
 971 official to maximize visibility.

972 (2) Required Information. The sign shall include the following information:

973 (a) The project name, a brief description (i.e., one hundred (100) single-family lots;
 974 fifty thousand (50,000) square feet of retail commercial space; etc.) case number,
 975 public hearing date, time and location.

976 (b) The telephone number and Internet address through which interested parties
 977 may contact the county for additional information.

978 (c) The preliminary land subdivision, site plan or other plot plan view depicting the
 979 applicable development permit request.

980 (d) The name of the applicant's contact and his or her telephone number, should
 981 interested parties wish to contact the applicant directly.

982 (e) The sign shall be made of materials that will endure inclement weather
 983 conditions typical of Clark County.

984 (f) The responsible county official shall provide the applicant a template for the sign.

985 (3) Construction Specifications. The sign board shall be constructed with four (4) foot by
 986 eight (8) foot material and secured with at least two four (4) inch by four (4) inch posts. The
 987 board shall be affixed to the posts with at least two five (5) inch long three-eighths-inch
 988 diameter bolts, washers and nuts per post. Bracing shall be provided in order for the sign

board to withstand high wind conditions that may occur. Posts shall be dug twenty-four (24) to thirty-six (36) inches into the ground for stability. The top of the sign board shall be designed to be between seven (7) and eight (8) feet above grade.

(4) Installation and Removal Requirements. The sign board, including all required information per Section 40.510.030(E)(3)(d)(2), shall be installed on the site at least thirty (30) calendar days in advance of the public hearing. The applicant shall maintain the sign board in good condition throughout the application review period, which shall extend through the time of the final county decision on the proposal including the expiration of the applicable appeal period of the hearings examiner's decision if submitted. If the sign board is removed, county review of the land use application may be discontinued until the board is replaced and has remained in place for the required period of time. The applicant shall remove the sign board within fourteen (14) calendar days after final county decision on the application, including expiration of applicable appeal periods.

(5) Affidavit of Installation. The applicant shall execute an affidavit certifying where and when the sign board was posted and submit to the responsible official for inclusion in the project file.

(Amended: Ord. 2006-11-07; Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2011-08-08; Ord. 2014-01-08)

F. Decision Timelines.

Not more than ninety-two (92) days after the date an application is determined fully complete, the hearing examiner shall issue a written decision regarding the application(s); provided:

1. If a determination of significance (DS) pursuant to Chapter 40.570 is issued, then the hearing examiner shall issue a decision not sooner than seven (7) calendar days after a final environmental impact statement is issued.

2. An applicant may agree in writing to extend the time in which the hearing examiner shall issue a decision. If the hearing examiner grants such a request, the hearing examiner may consider new evidence the applicant introduces with or subsequent to the request. New evidence may not be considered unless the time extension would allow for public review and response to the new evidence.

3. In determining the number of days that have elapsed after the county has notified the applicant that the application is fully complete, the following periods shall be excluded:

a. Any period during which the applicant has been requested by the county to correct plans, perform required studies, or provide additional required information. The responsible official shall specify a time period based on the complexity of the required information in which the required information must be submitted. The period shall be calculated from the date the county notifies the applicant of the need for additional information until the earlier of the date the county determines whether the additional information satisfies the request for information or fourteen (14) calendar days after the date the information has been provided to the county.

b. If the county determines that the information submitted by the applicant under Section 40.510.030(F)(3)(A) is insufficient, it shall notify the applicant of the deficiencies and the procedures under Section 40.510.030(F)(3)(A) shall apply as if a new request for studies had been made.

c. Any period of time during which an environmental impact statement (EIS) is being prepared; provided, that the maximum time allowed to prepare an EIS shall not exceed one (1) year from the issuance of the determination of significance unless the responsible official and applicant have otherwise agreed in writing to a longer period of time. If no mutual written

1035 agreement is completed, then the application shall become null and void after the one (1) year
1036 period unless the responsible official determines that delay in completion is due to factors
1037 beyond the control of the applicant.

1038 G. Vesting.

1039 1. Type III applications (other than zone change proposals) shall be considered under the land
1040 development regulations in effect at the time a fully complete application for preliminary approval is
1041 filed.

1042 2. Contingent Vesting. An application which is subject to pre-application review shall earlier
1043 contingently vest on the date a complete pre-application is submitted. Contingent vesting shall
1044 become final if a fully complete application for substantially the same proposal is submitted within
1045 one hundred eighty (180) calendar days of the date the responsible official issues its written
1046 summary of pre-application review subject to the limitations of Section 40.510.030(A)(4). Requests to
1047 waive contingent vesting rights by the applicant shall be approved, subject to the request being
1048 submitted in writing and submitted as part of the full application package.

1049 3. Special rules apply to approved planned unit developments under Section 40.520.080 and
1050 certain nonconforming uses under Section 40.530.050.

1051 4. For concurrency approval requirements, see Section 40.350.020.

1052 (Amended: Ord. 2007-06-05)

1053 H. Burden of Proof. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant
1054 shall have the burden of proving by substantial evidence compliance with applicable approval standards.
1055 Where evidence is conflicting, the examiner shall decide an issue based upon the preponderance of the
1056 evidence.

1057 (Amended: Ord. 2007-11-13)

1058 I. Appeals.

1059 1. Applicability. A final decision may be appealed only by a party of record. Final decisions may
1060 be appealed only if, within twenty-one (21) calendar days after written notice of the decision is
1061 ((mailed)) sent, a written appeal is filed in the superior court of Clark County, pursuant to Chapter
1062 36.70C RCW or applicable state law.

1063 (Amended: Ord. 2005-04-12; Ord. 2005-10-04; Ord. 2006-09-13; Ord. 2007-11-13;
1064 Ord. 2009-10-19; Ord. 2011-08-08)

1065 J. Special appeal procedure applicable to uses licensed or certified by the Department of Social and
1066 Health Services or the Department of Corrections.

1067 1. In accordance with RCW 35.63.260 (Section 1, Chapter 119, Laws of 1998), prior to the filing of
1068 an appeal of a final decision by a hearing examiner involving a conditional use permit application
1069 requested by a party that is licensed or certified by the Department of Social and Health Services or
1070 the Department of Corrections, the aggrieved party must, within five (5) days after the final decision,
1071 initiate formal mediation procedures in an attempt to resolve the parties' differences. If, after initial
1072 evaluation of the dispute, the parties agree to proceed with mediation, the mediation shall be
1073 conducted by a trained mediator selected by agreement of the parties. The agreement to mediate
1074 shall be in writing and subject to RCW 5.60.707. If the parties are unable to agree on a mediator,
1075 each party shall nominate a mediator and the mediator shall be selected by lot from among the
1076 nominees. The mediator must be selected within five (5) days after formal mediation procedures are
1077 initiated. The mediation process must be completed within fourteen (14) days from the time the
1078 mediator is selected except that the mediation process may extend beyond fourteen (14) days by
1079 agreement of the parties. The mediator shall, within the fourteen (14) day period or within the

1080 extension if an extension is agreed to provide the parties with a written summary of the issues and
1081 any agreements reached. If the parties agree, the mediation report shall be made available to the
1082 county. The cost of the mediation shall be shared by the parties.

1083 2. Any time limits for filing of appeals are tolled during the pendency of the mediation process.

1084 3. As used in this section, "party" does not include county, city or town.

1085 (Amended: Ord. 2007-11-13)

1086 **Section 5. Severability.** If any section, sentence, clause, or phrase of this ordinance is held invalid or
1087 unconstitutional by a court of competent jurisdiction or the Growth Management Hearings Board, such
1088 invalidity or unconstitutionality shall not affect the validity or unconstitutionality of any other section,
1089 sentence, clause, or phrase of this ordinance.

1090 **Section 6. Effective Date.** This ordinance will take effect July 16, 2021, 10 (ten) days after its adoption.

1091 **Section 7. Direction to Code Reviser.** Sections 1 and 5-8 are not subject to codification.

1092 **Section 8. Instructions to the Clerk.** The Clerk of the County Council shall:

1093 1. Record a copy of this ordinance with the Clark County Auditor.

1094 2. Transmit a copy of this ordinance to the Washington State Department of Commerce within ten days of
1095 its adoption pursuant to RCW 36.70A.106.

1096 3. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW 36.70A.290, and
1097 Clark County Code 1.02.140, and transmit a copy to Community Planning.

1098 4. Transmit a copy of the adopted ordinance to Code Publishing, Inc. forthwith to update the electronic
1099 version of the County Code.

1100 **Section 8. Roll Call Vote.** The following persons voted in favor of the above ordinance [amendments]:

1101 _____
1102 _____

1103 ADOPTED this ____ of _____ 2021.

1104 COUNTY COUNCIL

1105 CLARK COUNTY, WASHINGTON

1106

1107

1108 Attest:

1109

1110

1111

1112 Clerk to the Council

1113

1114 Approved as to Form Only

1115 Anthony F. Golik

1116 Prosecuting Attorney

1117 William
1118 Richardson

Digitally signed by William Richardson
DN: cn=William Richardson,
o=Prosecution Office, ou=Civil Division,
email=bill.richardson@clerk.wa.gov,
c=US
Date: 2021.06.21 17:51:07 -0700

1119 Bill Richardson,

1120 Deputy Prosecuting Attorney

1121

1122

1123

1124

1125

By:



Eileen Quiring O'Brien, Chair

By:

Temple Lentz, District 1

By:

Julie Olson, District 2

By:

Karen Dill Bowerman, District 3

By:

Gary Medvigy, District 4





DEVELOPMENT and ENGINEERING ADVISORY BOARD (DEAB)

Memorandum

TO: Clark County Council
FROM: DEAB
DATE: June 14, 2021
RE: Code Amendments 40.510/postal mail and email administration

During its June 3rd (virtual) meeting, DEAB reviewed and discussed said subject. A brief background and DEAB motion are as follows:

Code Amendments 40.510/postal mail and email administration: Per attached, Land Use Staff presented the administrative need and code updates for postal mail and email.

- DEAB Motion: Support the code amendments as presented. Motion passed unanimously.

Proposed Code Changes

Proposed changes are shown in underline and ~~strikeout~~ and highlighted in yellow in this document for easier reference. The formal ordinance does not include the highlights.

40.510.010 Type I Process – Ministerial Decisions

A. Review for Counter Complete Status.

1. Before accepting an application for review for fully complete status, and unless otherwise expressly provided by code, the responsible official shall determine the application is counter complete.
2. The responsible official shall decide whether an application is counter complete when the application is submitted, typically “over the counter.”
3. In order to review the applicable requirements with the applicant and to expedite the review process, a preliminary review meeting is strongly encouraged prior to submittal of an application for final site plan/final construction plan.
 - a. To request a preliminary review meeting, an applicant shall submit a completed form provided by the responsible official for that purpose. The applicant is encouraged to provide in advance or bring to the meeting all available draft application submittal requirements.
 - b. The responsible official shall coordinate the involvement of agency staff. Relevant staff shall attend the preliminary review meeting or shall take other steps to fulfill the purposes of the meeting.
 - c. If feasible, the preliminary review meeting shall be scheduled not more than fourteen (14) calendar days after the responsible official accepts the request for a preliminary review meeting.
4. An application is counter complete if the responsible official finds that the application purports and appears to include the information required by Section 40.510.010(B); provided, no effort shall be made to evaluate the substantive adequacy of the information in the application in the counter complete review process. Required information which has been waived by the responsible official shall be replaced by a determination from the responsible official granting the waiver.
5. If the responsible official decides the application is counter complete, then the application shall be accepted for review for fully complete status; provided, that for final plat applications, submittal requirements may be requested and reviewed in increments established by the responsible official.
6. If the responsible official decides the application is not counter complete, then the responsible official shall immediately reject and return the application and identify what is needed to make the application counter complete.

(Amended: Ord. 2017-07-04)

B. Review for Fully Complete Status.

1. Except as noted below, before accepting an application for processing, the responsible official shall determine that the application is fully complete.
 - a. Final plat applications shall not be deemed fully complete until all of the required materials specified in Section 40.540.070 have been submitted; however, the responsible official may establish application procedures to allow final plat applications to be processed in increments in advance of a fully complete application.

- b. Pursuant to Section 40.510.010(C)(2), applications for approval of final site plan/final construction plan shall be reviewed for completeness and correctness concurrently.
2. The responsible official shall decide whether an application is fully complete subject to the following:
- a. Within twenty-one (21) calendar days after the responsible official determines the application is counter complete; or
- b. Within fourteen (14) calendar days after an application has been resubmitted to the county after the application has been returned to the applicant as being incomplete.
3. An application is fully complete if it includes all the required materials specified in the submittal requirements for the specific development review application being applied for and additional materials specified in the pre-application conference. If submittal requirements are not specified in the applicable code sections the application is fully complete if it includes the following:
- a. A signed statement from the applicant certifying that the application has been made with the consent of the lawful property owner(s) and that all information submitted with the application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request. Submittal of the application gives consent to the county to enter the property(ies) subject to the application;
- b. The signature of the property owner or the property owner's authorized representative;
- c. A legal description supplied by the Clark County Survey Records Division, a title company, surveyor licensed in the state of Washington, or other party approved by responsible official, and current County Assessor map(s) showing the property(ies) subject to the application;
- d. The applicable fee(s) adopted by Council for the application(s) in question;
- e. An application shall include all of the information listed as application requirements in the relevant sections of this code.
- (1) The responsible official may waive application requirements that are clearly not necessary to show an application complies with relevant criteria and standards and may modify application requirements based on the nature of the proposed application, development, site or other factors. Requests for waivers shall be reviewed as a Type I process before applications are submitted for counter complete review or the application must contain all the required information;
- (2) The decision about the fully complete status of an application, including any required engineering, traffic or other studies, shall be based on submittal requirements listed in Section 40.510.050 and other applicable submittal requirements and shall not be based on the quality or technical accuracy of the submittal;
- f. Any applicable SEPA document, typewritten or in ink and signed.
4. If the responsible official decides an application is not fully complete, then, within the time provided in Section 40.510.010(B)(2), the responsible official shall send the applicant a written statement indicating that the application is incomplete based on a lack of information and listing what is required to make the application fully complete.
- a. The statement shall specify a date by which the required missing information must be provided to restart the fully complete review process pursuant to Section 40.510.010(B)(2)(b). The statement shall state that an applicant can apply to extend the deadline for filing the required information, and explain how to do so.

b. The statement also may include recommendations for additional information that, although not necessary to make the application fully complete, is recommended to address other issues that are or may be relevant to the review.

5. If the required information is not submitted by the date specified and the responsible official has not extended that date, within seven (7) calendar days after that date the responsible official shall take the action in Sections 40.510.010(B)(5)(a), (B)(5)(b) or (B)(5)(c). If the required information is submitted by the date specified, then within fourteen (14) calendar days the responsible official shall decide whether the application is fully complete and, if not, the responsible official shall:

a. Reject and return the application and scheduled fees and **mail-send** to the applicant a written statement which lists the remaining additional information needed to make the application fully complete; or

b. Issue a decision denying the application, based on a lack of information; or

c. The responsible official may allow the applicant to restart the fully complete review process a second time by providing the required missing information by a date specified by the responsible official, in which case the responsible official shall retain the application and fee pending expiration of that date or a fully complete review of the application as amended by that date.

If the responsible official decides an application is fully complete, then the responsible official shall begin processing the application pursuant to Section 40.510.010(C).

6. A fully complete determination shall not preclude the county from requesting additional information, studies or changes to submitted information or plans if new information is required or substantial changes to the proposed action occur.

(Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04; Ord. 2019-05-07)

C. Procedure.

1. Except for applications for approval of final site plan/final construction plan, the responsible official shall approve, approve with conditions, or deny the application within twenty-one (21) calendar days after the date the application was accepted as fully complete. An applicant may request in writing to extend the time in which the responsible official shall issue a decision, provided the county receives the request within the twenty-one (21) day period. If the responsible official grants such a request, the responsible official may consider new evidence the applicant introduces with or subsequent to the request.

2. Applications for Approval of Final Site Plan/Final Construction Plan.

a. Initial Review. Initial review shall be completed within twenty-one (21) calendar days of a counter-complete submittal. During the initial review, the plans shall be reviewed for completeness and correctness and the responsible official shall identify errors, omissions or inaccuracies in the application. The submittal shall also be reviewed by county staff for compliance with additional requirements including, but not limited to, wetland review, required dedications, and approval letters from other agencies. County staff shall notify the applicant or the applicant's representative when the reviewed submittal materials are available to be picked up and, unless waived by the responsible official, shall schedule a meeting with the applicant or the applicant's representative to review county staff's comments.

(1) If, after the initial review, the responsible official concludes that the application complies with the requirements of the code the responsible official shall issue a decision pursuant to Section 40.510.010(C)(2)(d).

131 (2) If, after the initial review, the responsible official concludes that the application does
132 not comply, the applicant shall amend the application and submit the amended application to
133 the county for a second review.

134 b. Second Review. The second review shall be completed within fourteen (14) calendar days
135 of the submittal of corrected plans. County staff shall notify the applicant or the applicant's
136 representative when the reviewed submittal materials are available.

137 (1) If, after the second review, the responsible official concludes that the application
138 complies with the requirements of the code, the responsible official shall issue a decision
139 pursuant to Section 40.510.010(C)(2)(d).

140 (2) If, after the second review, the responsible official concludes that the application does
141 not comply, the applicant shall amend the application and submit the amended application to
142 the county for a third review.

143 c. Third Review. The third review shall be completed within seven (7) calendar days of the
144 submittal of corrected plans. Upon completion of the third review, the responsible official shall
145 issue a decision pursuant to Section 40.510.010(C)(2)(d).

146 d. Within five (5) calendar days of the completion of the county's review, the responsible
147 official shall approve or deny the application; provided:

148 (1) An applicant may request additional reviews (fourth review, etc.). Such a request shall
149 be made in writing and shall be accompanied by the fees required for such additional
150 reviews.

151 (2) An applicant may request in writing to extend the time in which the responsible official
152 shall issue a decision. The responsible official may consider new evidence the applicant
153 introduces with or after such a written request.

154 3. Notice of a decision regarding a Type I process shall be mailed-sent to the applicant and
155 applicant's representative within seven (7) days of the issuance of the decision. The applicant may
156 appeal the decision pursuant to Section 40.510.010(E) or may apply for post-decision changes
157 pursuant to Section 40.520.060.

158 4. Notice of Agricultural, Forest or Mineral Resource Activities.

159 a. All plats, building permits or development approvals under this title issued for residential
160 development activities on, or within a radius of five hundred (500) feet for lands zoned
161 agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining
162 (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a
163 notice provided by the responsible official. Such notice shall include the following disclosure:

164 The subject property is within or near designated agricultural land, forest land or mineral resource land
165 (as applicable) on which a variety of commercial activities may occur that are not compatible with
166 residential development for certain periods of limited duration. Potential discomforts or inconveniences
167 may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery
168 (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the
169 application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

170 b. In the case of subdivisions or short plats, such notice shall be provided in the Developer
171 Covenants to Clark County; in the case of recorded binding site plans, such notice shall be
172 recorded separately with the County Auditor.

173 (Amended: Ord. 2005-04-12; Ord. 2016-06-12; Ord. 2017-07-04)

174 D. Vesting.

1. Type I applications shall be considered under the land development regulations in effect at the time a fully complete application for preliminary approval is filed; provided, an application which is subject to pre-application review shall earlier contingently vest on the date a complete pre-application is filed, which contingent vesting shall become final if a fully complete application for substantially the same proposal is filed within one hundred eighty (180) calendar days of the date the review authority issues its written summary of pre-application review.

2. Special rules apply to certain nonconforming uses under Section 40.530.050.

3. For concurrency approval requirements, see Section 40.350.020.

E. Appeals.

1. Applicability. A final decision regarding an application subject to a Type I procedure may be appealed by any interested party. Final decisions may be appealed only if, within fourteen (14) calendar days after written notice of the decision is **mailedsent**, a written appeal is filed with the responsible official. Final site plan and final construction plan decisions are not subject to administrative appeals under this section.

2. Submittal Requirements. The appeal shall contain the following information:

a. The case number designated by the county and the name of the applicant;

b. The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.020(E)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official. All contact with the responsible official regarding the petition, including notice, shall be with this contact representative;

c. The specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error; and

d. The appeal fee adopted by Council; provided, the fee shall be refunded if the appellant files with the responsible official at least fifteen (15) calendar days before the appeal hearing a written statement withdrawing the appeal.

3. Appeal Decision.

a. The hearing examiner shall hear appeals, other than appeals of final site plan/final construction plan decisions, in a de novo hearing. Notice of an appeal hearing shall be **mailedsent** to parties of record, but shall not be posted or published. A staff report shall be prepared, a hearing shall be conducted, and a decision shall be made and noticed and can be appealed as for a Type III process.

b. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant shall have the burden of proving by substantial evidence compliance with applicable approval standards. Where evidence is conflicting, the examiner shall decide an issue based upon the preponderance of the evidence.

(Amended: Ord. 2007-11-13; Ord. 2019-05-07)

40.510.020 Type II Process – Administrative Decisions

A. Pre-Application Review.

1. The purposes of pre-application review are:

a. To acquaint county staff with a sufficient level of detail about the proposed development to enable staff to advise the applicant accordingly;

217 b. To acquaint the applicant with the applicable requirements of this code and other law.
 218 However, the conference is not intended to provide an exhaustive review of all the potential
 219 issues that a given application could raise. The pre-application review does not prevent the
 220 county from applying all relevant laws to the application; and

221 c. To provide an opportunity for other agency staff and the public to be acquainted with the
 222 proposed application and applicable law. Although members of the public can attend a pre-
 223 application conference, it is not a public hearing, and there is no obligation to receive public
 224 testimony or evidence.

225 2. Pre-application review is required for applications, with the following exceptions:

226 a. The application is for one (1) of the following use classifications:

227 (1) Section 40.210.010, Forest and Agriculture districts;

228 (2) Section 40.520.020, Planning Director reviews and similar use determinations;

229 (3) Chapter 40.260, special uses (unless specified as a Type III review);

230 (4) Section 40.260.220, temporary permits;

231 (5) Section 40.530.010(F)(6), change in nonconforming use;

232 (6) Section 40.260.210, temporary dwelling permit;

233 (7) Section 40.520.060, post-decision reviews;

234 (8) Section 40.450.040, preliminary (stand-alone) wetland permit;

235 (9) SEPA review for projects that are not otherwise Type II reviews (e.g., grading);

236 (10) Section 40.500.010, interpretations;

237 (11) Section 40.550.020, administrative variances;

238 (12) Section 40.540.120(E)(3), minor plat alterations; or

239 b. The applicant applies for and is granted a pre-application waiver from the responsible
 240 official. The form shall state that waiver of pre-application review increases the risk the
 241 application will be rejected or processing will be delayed. Pre-application review generally should
 242 be waived by the responsible official only if the application is relatively simple. The decision
 243 regarding a pre-application waiver can be appealed as a Type I decision.

244 3. To initiate pre-application review, an applicant shall submit a completed form provided by the
 245 responsible official for that purpose, the required fee, and all information required by the relevant
 246 section(s) of this code. The applicant shall provide the required number of copies of all information as
 247 determined by the responsible official.

248 4. Information not provided on the form shall be provided on the face of the preliminary plat, in an
 249 environmental checklist or on other attachments. The responsible official may modify requirements
 250 for pre-application materials and may conduct a pre-application review with less than all of the
 251 required information. However, failure to provide all of the required information may prevent the
 252 responsible official from identifying all applicable issues or providing the most effective pre-
 253 application review and will preclude contingent vesting under Section 40.510.020(G). Review for
 254 completeness will not be conducted by staff at the time of submittal and it is the responsibility of the
 255 applicant.

5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the responsible official shall ~~mail-send~~ written notice to the applicant and to other interested agencies and parties, including the neighborhood association in whose area the property in question is situated. The notice shall state the date, time and location of the pre-application conference, the purposes of pre-application review, and the nature of the proposal.

6. The responsible official shall coordinate the involvement of agency staff responsible for planning, development review, roads, drainage, parks and other subjects, as appropriate, in the pre-application review process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the purposes of pre-application review.

7. The pre-application conference shall be scheduled at least five (5) calendar days after the notice is mailed but not more than twenty-eight (28) calendar days after the responsible official accepts the application for pre-application review. The responsible official shall reschedule the conference and give new notice if the applicant or applicant's representative cannot or does not attend the conference when scheduled.

8. Within seven (7) calendar days after the date of the pre-application conference, the responsible official shall ~~mail-send~~ to the applicant and to other parties who ~~sign a register provided for such purpose at the pre-application attend the~~ conference or who otherwise request it in writing, a written summary of the pre-application review. ~~The summary may be e-mailed instead of mailed to the applicant and other parties should they consent to this method.~~ The written summary generally shall do the following to the extent possible given the information provided by the applicant:

a. Summarize the proposed application(s);

b. Identify the relevant approval criteria and development standards in this code or other applicable law and exceptions, adjustments or other variations from applicable criteria or standards that may be necessary;

c. Evaluate information the applicant offered to comply with the relevant criteria and standards, and identify specific additional information that is needed to respond to the relevant criteria and standards or is recommended to respond to other issues;

d. Identify applicable application fees in effect at the time, with a disclaimer that fees may change;

e. Identify information relevant to the application that may be in the possession of the county or other agencies of which the county is aware, such as:

(1) Comprehensive plan map designation and zoning on and in the vicinity of the property subject to the application;

(2) Physical development limitations, such as steep or unstable slopes, wetlands, wellhead protection areas, water bodies, or special flood hazard areas, that exist on and in the vicinity of the property subject to the application;

(3) Those public facilities that will serve the property subject to the application, including fire services, roads, storm drainage, and, if residential, parks and schools, and relevant service considerations, such as minimum access and fire flow requirements or other minimum service levels and impact fees; and

(4) Other applications that have been approved or are being considered for land in the vicinity of the property subject to the proposed application that may affect or be affected by the proposed application.

f. Where applicable, indicate whether the pre-application submittal was complete so as to trigger contingent vesting under Section 40.510.020(G).

9. An applicant may submit a written request for a second pre-application conference within one (1) calendar year after an initial pre-application conference. There is no additional fee for a second conference if the proposed development is substantially similar to the one reviewed in the first pre-application conference or if it reflects changes based on information received at the first pre-application conference. A request for a second pre-application conference shall be subject to the same procedure as the request for the initial pre-application conference.

10. A new request for or waiver of a pre-application review for a given development shall be filed unless the applicant submits a fully complete application that the responsible official finds is substantially similar to the subject of a pre-application review within one (1) calendar year after the last pre-application conference or after approval of waiver of pre-application review.

(Amended: Ord. 2005-04-12; Ord. 2006-05-01; Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2009-07-01; Ord. 2010-08-06; Ord. 2017-07-04; Ord. 2020-03-01)

B. Review for Counter Complete Status.

1. Before accepting an application for review for fully complete status, and unless otherwise expressly provided by code, the responsible official shall determine the application is counter complete.

2. The responsible official shall decide whether an application is counter complete when the application is accepted, typically "over the counter."

3. An application is counter complete if the responsible official finds that the application purports and appears to include the information required by Section 40.510.020(C); provided, no effort shall be made to evaluate the substantive adequacy of the information in the application in the counter complete review process. Required information which has been waived by the responsible official shall be replaced by a determination from the responsible official granting the waiver.

4. If the responsible official decides the application is counter complete, then the application shall be accepted for review for fully complete status.

5. If the responsible official decides the application is not counter complete, then the responsible official shall immediately reject and return the application and identify what is needed to make the application counter complete.

(Amended: Ord. 2017-07-04)

C. Review for Fully Complete Status.

1. Before accepting an application for processing, the responsible official shall determine that the application is fully complete.

2. The responsible official shall decide whether an application is fully complete subject to the following:

a. Within twenty-one (21) calendar days after the responsible official determines the application is counter complete; or

b. Within fourteen (14) calendar days after an application has been resubmitted to the county after the application has been returned to the applicant as being incomplete.

3. An application is fully complete if it includes all the required materials specified in the submittal requirements for the specific development review application being applied for and additional materials specified in the pre-application conference. If submittal requirements are not specified in the applicable code sections the application is fully complete if it includes the following:

a. A signed statement from the applicant certifying that the application has been made with the consent of the lawful property owner(s) and that all information submitted with the application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request. Submittal of the application gives consent to the county to enter the property(ies) subject to the application;

b. The signature of the property owner or the property owner's authorized representative;

c. A legal description supplied by the Clark County Survey Records Division, a title company, surveyor licensed in the state of Washington, or other party approved by the responsible official, and current County Assessor map(s) showing the property(ies) subject to the application;

d. A current County Assessor map(s) showing the property(ies) within a radius of the subject site as required in Section 40.510.020(E);

e. Unless the responsible official has waived the pre-application conference or a pre-application conference was not required pursuant to Section 40.510.020(A)(2), a copy of the pre-application conference summary, and information required by the pre-application conference summary, unless not timely prepared as required by Section 40.510.020(A)(8);

f. The applicable fee(s) adopted by Council for the application(s) in question;

g. An application shall include all of the information listed as application requirements in the relevant sections of this code.

(1) The responsible official may waive application requirements that are clearly not necessary to show an application complies with relevant criteria and standards and may modify application requirements based on the nature of the proposed application, development, site or other factors. Requests for waivers shall be reviewed as a Type I process before applications are submitted for counter complete review or the application must contain all the required information;

(2) The decision about the fully complete status of an application, including any required engineering, traffic or other studies, shall be based on the criteria for completeness as established by the responsible official and shall not be based on differences of opinion as to quality or accuracy;

h. Any applicable SEPA document, typewritten or in ink and signed.

4. If the responsible official decides an application is not fully complete, then, within the time provided in Section 40.510.020(C)(2), the responsible official shall send the applicant a written statement indicating that the application is incomplete based on a lack of information and listing what is required to make the application fully complete.

a. The statement shall specify a date by which the required missing information must be provided to restart the fully complete review process pursuant to Section 40.510.020(C)(2)(b). The statement shall state that an applicant can apply to extend the deadline for filing the required information, and explain how to do so.

b. The statement also may include recommendations for additional information that, although not necessary to make the application fully complete, is recommended to address other issues that are or may be relevant to the review.

5. If the required information is not submitted by the date specified and the responsible official has not extended that date, within seven (7) calendar days after that date the responsible official shall take the action in Section 40.510.020(C)(5)(a), (C)(5)(b) or (C)(5)(c). If the required information is submitted by the date specified, then within fourteen (14) calendar days the responsible official shall decide whether the application is fully complete and, if not, the responsible official shall:

a. Reject and return the application and scheduled fees and **mail-send** to the applicant a written statement which lists the remaining additional information needed to make the application fully complete; or

b. Issue a decision denying the application, based on a lack of information; provided, the responsible official may allow the applicant to restart the fully complete review process a second time by providing the required missing information by a date specified by the responsible official, in which case the responsible official shall retain the application and fee pending expiration of that date or a fully complete review of the application as amended by that date.

6. If the responsible official decides an application is fully complete, then the responsible official shall, within fourteen (14) calendar days of making this determination:

a. Forward the application to the county staff responsible for processing it;

b. Send a written notice of receipt of a complete application to the applicant acknowledging acceptance, listing the name and telephone number of a contact person for the responsible official, and describing the expected review schedule;

c. Prepare a public notice in accordance with Section 40.510.020(E).

7. An application shall be determined fully complete if a written determination has not been **mailed sent** to the applicant within twenty-eight (28) calendar days of the date the application is submitted. An application shall be determined fully complete if a written determination has not been **mailed-sent** to the applicant within fourteen (14) calendar days of the date that the necessary additional information is submitted.

8. A fully complete determination shall not preclude the county from requesting additional information, studies or changes to submitted information or plans if new information is required or substantial changes to the proposed action occur.

(Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04; Ord. 2019-05-07)

D. Procedure.

1. Within fourteen (14) calendar days after the date an application is accepted as fully complete, the responsible official for the application shall issue a public notice of the application pending review consistent with the requirements of Section 40.510.020(E).

2. The responsible official shall **mail-send** to the applicant a copy of comments timely received in response to the notice together with a statement that the applicant may respond to the comments within fourteen (14) calendar days from the date the comments are **mailedsent**. The responsible official shall consider the comments timely received in response to the notice and timely responses by the applicant to those comments. The responsible official may consider comments and responses received after the deadline for filing.

3. A decision shall be made within the timelines specified by Section 40.510.020(F), and shall include:

a. A statement of the applicable criteria and standards in this code and other applicable law;

b. A statement of the facts that the responsible official found showed the application does or does not comply with each applicable approval criterion and assurance of compliance with applicable standards;

c. The reasons for a conclusion to approve or deny; and

d. The decision to deny or approve the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with applicable law.

4. Within seven (7) calendar days of the decision, the responsible official shall ~~mail-send~~ a notice of decision to the applicant and applicant's representative, the neighborhood association in whose area the property in question is situated, and all parties of record regarding the application. The ~~mailing shall include a notice shall which includes~~ the following information:

a. A statement that the decision and SEPA determination are final, but may be appealed as provided in Section 40.510.020(H) to the hearing examiner within fourteen (14) calendar days after the notice of decision. The appeal closing date shall be listed in boldface type. The statement shall describe how a party may appeal the decision or SEPA determination or both, including applicable fees and the elements of an appeal statement; and

b. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for review. The notice shall list the place, days and times where the case file is available and the name and telephone number of the county representative to contact about reviewing the case file.

5. Notice of Agricultural, Forest or Mineral Resource Activities.

a. All plats, building permits or development approvals under this title issued for residential development activities on, or within a radius of five hundred (500) feet for lands zoned agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a notice provided by the responsible official. Such notice shall include the following disclosure:

The subject property is within or near designated agricultural land, forest land or mineral resource land (as applicable) on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

b. In the case of subdivisions or short plats, such notice shall be provided in the Developer Covenants to Clark County; in the case of recorded binding site plans, such notice shall be recorded separately with the County Auditor.

(Amended: Ord. 2005-04-12; Ord. 2016-06-12; Ord. 2017-07-04)

E. Public Notice.

1. The notice of the application shall include the following information, to the extent known:

a. The project name, the case file number(s), date of application, the date the application was determined fully complete, and the date the notice is sent;

b. A description of the proposed project and a list of project permits included with the application;

c. A statement of the public comment period, that the public has the right to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A statement shall indicate that written comments received by the county within fifteen (15) calendar days from the date of the notice will be considered;

d. The deadline for submitting a SEPA appeal pursuant to Section 40.570.080(D);

e. A statement of the preliminary SEPA determination, if one has been made;

473 f. A list of applicable code sections;

474 g. The name of the applicant or applicant's representative and the name, address and
475 telephone number of a contact person for the applicant, if any;

476 h. A description of the site, including current zoning and nearest road intersections,
477 reasonably sufficient to inform the reader of its location and zoning;

478 i. A map showing the subject property in relation to other properties or a reduced copy of the
479 site plan;

480 j. The date, place and times where information about the application may be examined and
481 the name and telephone number of the county representative to contact about the application;
482 and

483 k. Any additional information determined appropriate by the county.

484 2. Distribution.

485 a. The responsible official shall **mail-send** a copy of the notice to:

486 (1) The applicant and the applicant's representative;

487 (2) The neighborhood association in whose area the property in question is situated,
488 based on the list of neighborhood associations kept by the responsible official and known
489 interest groups;

490 (3) Owners of property within a radius of three hundred (300) feet of the property that is
491 the subject of the application if the subject property is inside the urban growth boundary or to
492 owners or property within a radius of five hundred (500) feet of the property if the subject
493 property is outside the urban growth boundary;

494 (a) The records of the County Assessor shall be used for determining the property
495 owner of record. The failure of a property owner to receive notice shall not affect the
496 decision if the notice was sent. A sworn certificate of mailing executed by the person
497 who did the mailing shall be evidence that notice was mailed to parties listed or
498 referenced in the certificate, and

499 (b) If the applicant owns property adjoining the property that is the subject of the
500 application, then notice shall be mailed to owners of property within a three hundred
501 (300) or five hundred (500) foot radius, as provided in this subdivision, of the edge of
502 the property owned by the applicant adjoining the property that is the subject of the
503 application;

504 (4) Agencies with jurisdiction; and

505 (5) To other people the responsible official believes may be affected by the proposed
506 action or who request such notice in writing.

507 (Amended: Ord. 2007-06-05)

508 F. Decision Timelines.

509 Not more than seventy-eight (78) calendar days after the date an application is determined fully
510 complete, the responsible official shall issue a written decision regarding the application(s); provided:

1. If a determination of significance (DS) is issued, then the responsible official shall issue a decision not sooner than seven (7) calendar days after a final environmental impact statement is issued.

2. An applicant may request in writing to extend the time in which the responsible official shall issue a decision. If the responsible official grants such a request, the responsible official may consider new evidence the applicant introduces with or subsequent to the request.

3. In determining the number of days that have elapsed after the county has notified the applicant that the application is fully complete, the following periods shall be excluded:

a. Any period during which the applicant has been requested by the county to correct plans, perform required studies, or provide additional required information. The responsible official shall specify a time period based on the complexity of the required information in which the required information must be submitted. The period shall be calculated from the date the county notifies the applicant of the need for additional information until the earlier of the date the county determines whether the additional information satisfies the request for information or fourteen (14) calendar days after the date the information has been provided to the county.

b. If the county determines that the information submitted by the applicant under Section 40.510.020(F)(3)(a) is insufficient, it shall notify the applicant of the deficiencies and the procedures under Section 40.510.020(F)(3)(a) shall apply as if a new request for studies had been made.

c. Any period of time during which an environmental impact statement is being prepared; provided, that the maximum time allowed to prepare an environmental impact statement shall be one (1) year from the issuance of the determination of significance unless the responsible official and applicant have otherwise agreed in writing to a longer period of time. If no mutual written agreement is completed, then the application shall become null and void after the one (1) year period unless the responsible official determines that delay in completion is due to factors beyond the control of the applicant.

G. Vesting.

1. Type II applications shall be considered under the development regulations in effect at the time a fully complete application for preliminary approval is filed.

2. Contingent Vesting. An application which is subject to pre-application review shall earlier contingently vest on the date a fully complete pre-application is submitted. This vesting shall become final if a fully complete application for substantially the same proposal is submitted within one hundred eighty (180) calendar days of the date the responsible official issues its written summary of pre-application review subject to the limitations of Section 40.510.020(A)(4). Requests to waive contingent vesting rights by the applicant shall be approved, subject to the request being submitted in writing and submitted as part of the full application package.

3. Special rules apply to certain nonconforming uses under Section 40.530.050.

4. For concurrency approval requirements, see Section 40.350.020.

(Amended: Ord. 2007-06-05)

H. Appeals.

1. Applicability. A final decision may be appealed only by a party of record. Final decisions may be appealed if, within fourteen (14) calendar days after written notice of the decision is **mailedsent**, a written appeal is filed with the responsible official.

2. Submittal Requirements. The appeal shall contain the following information:

- 555 a. The case number designated by the county and the name of the applicant;
- 556 b. The name of each petitioner, the signature of each petitioner or his or her duly authorized
557 representative, and a statement showing that each petitioner is entitled to file the appeal under
558 Section 40.510.020(H)(1). If multiple parties file a single petition for review, the petition shall
559 designate one (1) party as the contact representative for all contact with the responsible official.
560 All contact with the responsible official regarding the petition, including notice, shall be with this
561 contact representative;
- 562 c. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why
563 each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
564 and
- 565 d. The appeal fee adopted by Council; provided, the scheduled fee shall be refunded if the
566 applicant files with the responsible official at least fifteen (15) calendar days before the appeal
567 hearing a written statement withdrawing the appeal.
- 568 3. Appeal Procedures.
- 569 a. The hearing examiner shall hear appeals in a de novo hearing. Notice of an appeal
570 hearing shall be ~~mailed-sent~~ to parties of record, but shall not be posted or published. A staff
571 report shall be prepared, a hearing shall be conducted, and a decision shall be made and
572 noticed. The decision can be appealed under a Type III process.
- 573 b. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant shall
574 have the burden of proving by substantial evidence compliance with applicable approval
575 standards. Where evidence is conflicting, the examiner shall decide an issue based upon the
576 preponderance of the evidence.
- 577 (Amended: Ord. 2005-10-04; Ord. 2007-11-13; Ord. 2019-05-07)
- 578
- 579 **40.510.025 Type II-A Process – Administrative Decisions**
- 580 A. Purpose.
- 581 The purpose of this section is to provide an alternative process for reviews of conditional uses,
582 planned unit developments, and master plans which combine features of the Type II and Type III
583 processes.
- 584 B. Applicability.
- 585 1. Under this section, applications for conditional use permits, planned unit developments, and
586 master plans shall be reviewed using a Type II-A process, and in conjunction with Sections
587 40.520.030(C), 40.520.070(D) and (E), and 40.520.080(F).
- 588 C. Approval Process.
- 589 1. Pre-application review under Section 40.510.030(A) is required for all conditional uses, planned
590 unit developments and master plans.
- 591 2. Neighborhood Meeting.
- 592 a. The applicant must hold a neighborhood meeting within the ninety (90) day period prior to
593 the submittal of an application for a conditional use, planned unit development, or master
594 planned development. This meeting is to exchange information on the development design, and
595 review issues and alternatives prior to the application. The meeting must be held at a location

within a reasonable distance of the proposed development site on a weekday evening. A pre-application conference does not substitute for a neighborhood meeting.

b. The applicant must send out notices at least fifteen (15) days prior to the meeting to the following:

- (1) The Chair of the Neighborhood Associations Council of Clark County (NACCC);
- (2) The county-recognized official representative of the Neighborhood Association, if one exists, that includes the proposed site;
- (3) The county staff representative responsible for neighborhood relations; and
- (4) All landowners within a radius of five hundred (500) feet of the proposed site.
- (5) The mailing list used for notification shall be based on the most recent property tax assessment rolls within thirty (30) days of mailing of the Clark County Assessor. At the request of the applicant, and upon payment of an applicable fee, the county will provide the required mailing list.

c. The notice must identify the date, time and place of the meeting and provide a description of the proposed development.

d. The applicant must post the meeting notification in the neighborhood news section of the local press, and post a sign with the neighborhood notification in a conspicuous location near the edge of the property containing the proposed development.

e. A copy of the notice, mailing list, proposed development plan, minutes and sign-in sheet from the meeting must be submitted with the application.

3. After the neighborhood meeting is held, the application shall be processed following the procedures in Section 40.510.020, unless a public hearing is required under Section 40.510.025(C)(5).

4. Exceptions.

a. A public hearing is required if:

- (1) The applicant requests the application be processed as a Type III review;
- (2) The responsible official refers the proposal to the Hearing Examiner; or
- (3) A hearing is requested by anyone within twenty-one (21) days from when the public comment period began.

5. Public Hearing Requested.

If a public hearing is requested:

a. Public hearing notices and procedures as required under Section 40.510.030 shall be required; and

b. The Hearing Examiner shall review the application and approve, approve with conditions, or deny the application.

(Added: Ord. 2010-08-06; Ord. 2012-07-03; Ord. 2012-12-23)

40.510.030 Type III Process – Quasi-Judicial Decisions

A. Pre-Application Review.

1. The purposes of pre-application review are:

a. To acquaint county staff with a sufficient level of detail about the proposed development to enable staff to advise the applicant accordingly;

b. To acquaint the applicant with the applicable requirements of this code and other law. However, the conference is not intended to provide an exhaustive review of all the potential issues that a given application could raise. The pre-application review does not prevent the county from applying all relevant laws to the application; and

c. To provide an opportunity for other agency staff and the public to be acquainted with the proposed application and applicable law. Although members of the public can attend a pre-application conference, it is not a public hearing, and there is no obligation to receive public testimony or evidence.

2. Pre-application review is required for applications, with the following exceptions:

a. The application is for a post-decision review, as described in Section 40.520.060; or

b. The applicant applies for and is granted a pre-application waiver from the responsible official. The form shall state that waiver of pre-application review increases the risk the application will be rejected or processing will be delayed. Pre-application review generally should be waived by the responsible official only if the application is relatively simple. The decision to waive a pre-application can be appealed as a Type I decision.

3. To initiate pre-application review, an applicant shall submit a completed form provided by the responsible official for that purpose, the required fee, and all information required by the relevant section(s) of this code. The applicant shall provide the required number of copies of all information as determined by the responsible official.

4. Information not provided on the form shall be provided on the face of the preliminary plat, in an environmental checklist or on other attachments. The responsible official may modify requirements for pre-application materials and may conduct a pre-application review with less than all of the required information. However, failure to provide all of the required information may prevent the responsible official from identifying all applicable issues or providing the most effective pre-application review and will preclude contingent vesting under Section 40.510.030(G). Review for completeness will not be conducted by staff at the time of submittal and it is the responsibility of the applicant.

5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the responsible official shall **mail-send** written notice to the applicant and to other interested agencies and parties, including the neighborhood association in whose area the property in question is situated. The notice shall state the date, time and location of the pre-application conference, the purposes of pre-application review, and the nature of the conference.

6. The responsible official shall coordinate the involvement of agency staff responsible for planning, development review, roads, drainage, parks and other subjects, as appropriate, in the pre-application review process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the purposes of pre-application review.

7. The pre-application conference shall be scheduled at least five (5) calendar days after the notice is **mailed sent** but not more than twenty-eight (28) calendar days after the responsible official accepts the application for pre-application review. The responsible official shall reschedule the

conference and give new notice if the applicant or applicant's representative cannot or does not attend the conference when scheduled.

8. Within seven (7) calendar days after the date of the pre-application conference, the responsible official shall ~~mail-send~~ to the applicant and to other parties who ~~sign a register provided for such purpose at attend~~ the pre-application conference or who otherwise request it in writing, a written summary of the pre-application review. ~~The summary may be e-mailed instead of mailed to the applicant and other parties should they consent to this method.~~ The written summary generally shall do the following to the extent possible given the information provided by the applicant:

- a. Summarize the proposed application(s);
- b. Identify the relevant approval criteria and development standards in this code or other applicable law and exceptions, adjustments or other variations from applicable criteria or standards that may be necessary;
- c. Evaluate information the applicant offered to comply with the relevant criteria and standards, and identify specific additional information that is needed to respond to the relevant criteria and standards or is recommended to respond to other issues;
- d. Identify applicable application fees in effect at the time, with a disclaimer that fees may change;
- e. Identify information relevant to the application that may be in the possession of the county or other agencies of which the county is aware, such as:
 - (1) Comprehensive plan map designation and zoning on and in the vicinity of the property subject to the application;
 - (2) Physical development limitations, such as steep or unstable slopes, wetlands, well head protection areas, water bodies, or special flood hazard areas, that exist on and in the vicinity of the property subject to the application;
 - (3) Those public facilities that will serve the property subject to the application, including fire services, roads, storm drainage, and, if residential, parks and schools, and relevant service considerations, such as minimum access and fire flow requirements or other minimum service levels and impact fees; and
 - (4) Other applications that have been approved or are being considered for land in the vicinity of the property subject to the proposed application that may affect or be affected by the proposed application.
- f. Where applicable, indicate whether the pre-application submittal was complete so as to trigger contingent vesting under Section 40.510.030(G).

9. An applicant may submit a written request for a second pre-application conference within one (1) calendar year after an initial pre-application conference. There is no additional fee for a second conference if the proposed development is substantially similar to the one reviewed in the first pre-application conference or if it reflects changes based on information received at the first pre-application conference. A request for a second pre-application conference shall be subject to the same procedure as the request for the initial pre-application conference.

10. A request for or waiver of a pre-application review for a given development shall be filed unless the applicant submits a fully complete application that the responsible official finds is substantially similar to the subject of a pre-application review within one (1) calendar year after the last pre-application conference or after approval of waiver of pre-application review.

(Amended: Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2017-07-04)

721 B. Review for Counter Complete Status.

722 1. Before accepting an application for review for fully complete status, and unless otherwise
723 expressly provided by code, the responsible official shall determine the application is counter
724 complete.

725 2. The responsible official shall decide whether an application is counter complete when the
726 application is accepted, typically "over the counter."

727 3. An application is counter complete if the responsible official finds that the application purports
728 and appears to include the information required by Section 40.510.030(C)(3); provided, no effort shall
729 be made to evaluate the substantive adequacy of the information in the application in the counter
730 complete review process. Required information which has been waived by the responsible official
731 shall be replaced by a determination from the responsible official granting the waiver.

732 4. If the responsible official decides the application is counter complete, then the application shall
733 be accepted for review for fully complete status.

734 5. If the responsible official decides the application is not counter complete, then the responsible
735 official shall immediately reject and return the application and identify what is needed to make the
736 application counter complete.

737 (Amended: Ord. 2017-07-04)

738 C. Review for Fully Complete Status.

739 1. Before accepting an application for processing, the responsible official shall determine that the
740 application is fully complete.

741 2. The responsible official shall decide whether an application is fully complete subject to the
742 following:

743 a. Within twenty-one (21) calendar days after the responsible official determines the
744 application is counter complete; or

745 b. Within fourteen (14) calendar days after an application has been resubmitted to the county
746 after the application has been returned to the applicant as being incomplete.

747 3. An application is fully complete if it includes all the required materials specified in the submittal
748 requirements for the specific development review application being applied for and additional
749 materials specified in the pre-application conference. If submittal requirements are not specified in
750 the applicable code sections the application is fully complete if it includes the following:

751 a. A signed statement from the applicant certifying that the application has been made with
752 the consent of the lawful property owner(s) and that all information submitted with the application
753 is complete and correct. False statements, errors, and/or omissions may be sufficient cause for
754 denial of the request. Submittal of the application gives consent to the county to enter the
755 property(ies) subject to the application;

756 b. The signature of the property owner or the property owner's authorized representative;

757 c. A written narrative that addresses the following:

758 (1) How the application meets or exceeds each of the applicable approval criteria and
759 standards; and

760 (2) How the issues identified in the pre-application conference have been addressed, and
761 generally, how services will be provided to the site;

762 d. A current County Assessor map(s) showing the property(ies) within a radius of the subject
763 site as required in Sections 40.510.030(E);

764 e. A legal description supplied by the Clark County Survey Records Division, a title company,
765 surveyor licensed in the state of Washington, or other party approved by the responsible official,
766 and current County Assessor map(s) showing the property(ies) subject to the application;

767 f. Unless the responsible official has waived the pre-application conference, a copy of the
768 pre-application conference summary, and information required by the pre-application conference
769 summary, unless not timely prepared as required by Section 40.510.030(A)(7);

770 g. A preliminary site plan or plat that shows existing conditions and proposed improvements;

771 h. The applicable fee(s) adopted by Council for the application(s) in question;

772 i. Any applicable SEPA document, typewritten or in ink and signed.

773 4. An application shall include all of the information listed as application requirements in the
774 relevant sections of this code.

775 a. The responsible official may waive application requirements that are clearly not necessary
776 to show an application complies with relevant criteria and standards and may modify application
777 requirements based on the nature of the proposed application, development, site or other
778 factors. Requests for waivers shall be reviewed as a Type I process before applications are
779 submitted for counter complete review or the application must contain all the required
780 information;

781 b. The decision about the fully complete status of an application, including any required
782 engineering, traffic or other studies, shall be based on the criteria for completeness and
783 methodology set forth in this code or in implementing measures timely adopted by the
784 responsible official and shall not be based on differences of opinion as to quality or accuracy.

785 5. If the responsible official decides an application is not fully complete, then, within the time
786 provided in Section 40.510.030(C)(2), the responsible official shall send the applicant a written
787 statement indicating that the application is incomplete based on a lack of information and listing what
788 is required to make the application fully complete.

789 a. The statement shall specify a date by which the required missing information must be
790 provided to restart the fully complete review process pursuant to Section 40.510.030(C)(2)(b).
791 The statement shall state that an applicant can apply to extend the deadline for filing the
792 required information, and explain how to do so.

793 b. The statement also may include recommendations for additional information that, although
794 not necessary to make the application fully complete, is recommended to address other issues
795 that are or may be relevant to the review.

796 6. If the required information is not submitted by the date specified and the responsible official has
797 not extended that date, within seven (7) calendar days after that date the responsible official shall
798 take the action in Section 40.510.030(C)(6)(a) or (C)(6)(b). If the required information is submitted by
799 the date specified, then within fourteen (14) calendar days the responsible official shall decide
800 whether the application is fully complete and, if not, the responsible official shall:

801 a. Reject and return the application and scheduled fees and **mail-send** to the applicant a
802 written statement which lists the remaining additional information needed to make the application
803 fully complete; or

804 b. Issue a decision denying the application, based on a lack of information; provided, the
805 responsible official may allow the applicant to restart the fully complete review process a second

time by providing the required missing information by a date specified by the responsible official, in which case the responsible official shall retain the application and fee pending expiration of that date or a fully complete review of the application as amended by that date.

7. If the responsible official decides an application is fully complete, then the responsible official shall, within fourteen (14) calendar days of making this determination:

a. Forward the application to the county staff responsible for processing it, and schedule public hearing;

b. Send a written notice of receipt of a complete application to the applicant acknowledging acceptance, listing the name and telephone number of a contact person at the review authority, and describing the expected review schedule, including the date of a hearing for a Type III process;

c. Prepare a public notice in accordance with Section 40.510.030(E).

8. An application shall be determined fully complete if a written determination has not been ~~mailed~~ ~~sent~~ to the applicant within twenty-eight (28) calendar days of the date the application is submitted. An application shall be determined fully complete if a written determination has not been ~~mailed~~ ~~sent~~ to the applicant within fourteen (14) calendar days of the date that the necessary additional information is submitted.

9. A fully complete determination shall not preclude the county from requesting additional information, studies or changes to submitted information or plans if new information is required or substantial changes to the proposed action occur.

(Amended: Ord. 2006-05-01; Ord. 2012-07-03; Ord. 2017-07-04; Ord. 2019-05-07)

D. Procedure.

1. At least one (1) public hearing before the hearing examiner is required. The public hearing should be held within seventy-eight (78) calendar days after the date the responsible official issues the determination that the application is fully complete.

2. At least fifteen (15) calendar days before the date of a hearing, the responsible official shall issue a public notice of the hearing consistent with the requirements in Section 40.510.030(E).

3. At least fifteen (15) calendar days before the date of the hearing for an application(s), the responsible official shall issue a written staff report and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall ~~mail~~ ~~send~~ a copy of the staff report and recommendation without charge to the hearing examiner and to the applicant and applicant's representative. The responsible official shall ~~mail~~ ~~send~~ or provide a copy of the staff report at reasonable charge to other parties who request it.

4. Public hearings shall be conducted in accordance with the rules of procedure adopted by the hearing examiner, except to the extent waived by the hearing examiner. A public hearing shall be recorded electronically.

a. At the beginning of a hearing or agenda of hearings, the hearing examiner shall:

(1) State that testimony will be received only if it is relevant to the applicable approval criteria and development standards and is not unduly repetitious;

(2) Identify the applicable approval criteria and development standards;

846 (3) State that the hearing examiner will consider any party's request that the hearing be
847 continued or that the record be kept open for a period of time and may grant or deny that
848 request;

849 (4) State that the hearing examiner must be impartial and whether the hearing examiner
850 has had any ex parte contact or has any personal or business interest in the application. The
851 hearing examiner shall afford parties an opportunity to challenge the impartiality of the
852 authority;

853 (5) State whether the hearing examiner has visited the site;

854 (6) State that persons who want to receive notice of the decision may sign a list for that
855 purpose at the hearing and where that list is kept; and

856 (7) Summarize the conduct of the hearing.

857 b. At the conclusion of the hearing on each application, the hearing examiner shall announce
858 one (1) of the following actions:

859 (1) That the hearing is continued. If the hearing is continued to a place, date and time
860 certain, then additional notice of the continued hearing is not required to be mailed, published
861 or posted. If the hearing is not continued to a place, date and time certain, then notice of the
862 continued hearing shall be given as though it was the initial hearing. The hearing examiner
863 shall adopt guidelines for reviewing requests for continuances;

864 (2) That the public record is held open to a date and time certain. The hearing examiner
865 shall state where additional written evidence and testimony can be sent, and shall announce
866 any limits on the nature of the evidence that will be received after the hearing. The hearing
867 examiner may adopt guidelines for reviewing requests to hold open the record;

868 (3) That the application(s) is/are taken under advisement, and a final order will be issued
869 as provided in Section 40.510.030(D)(6); or

870 (4) That the application(s) is/are denied, approved or approved with conditions, together
871 with a brief summary of the basis for the decision, and that a final order will be issued as
872 provided in Section 40.510.030(D)(5).

873 5. Unless the applicant agrees to allow more time, within fourteen (14) calendar days after the
874 date the record closes, the hearing examiner shall issue a written decision regarding the
875 application(s); provided, the hearing examiner shall not issue a written decision regarding the
876 application(s) until at least fifteen (15) calendar days after the threshold determination under Chapter
877 40.570 is made. The decision shall include:

878 a. A statement of the applicable criteria and standards in this code and other applicable law;

879 b. A statement of the facts that the hearing examiner found showed the application does or
880 does not comply with each applicable approval criterion and standards;

881 c. The reasons for a conclusion to approve or deny; and

882 d. The decision to deny or approve the application and, if approved, any conditions of
883 approval necessary to ensure the proposed development will comply with applicable criteria and
884 standards.

885 6. Within seven (7) calendar days from the date of the decision, the responsible official shall mail
886 send via regular mail, or by e-mail if the receiving party agrees to this method, the notice of decision
887 to the applicant and applicant's representative, the neighborhood association in whose area the

property in question is situated, and all parties of record. The ~~mailing shall include a notice which shall include~~ the following information:

a. A statement that the decision and SEPA determination, if applicable, are final, but may be appealed as provided in Section 40.510.030 ~~(H) to Council~~ within fourteen (14) calendar days after the date the notice is ~~mailed~~sent. The appeal closing date shall be listed in boldface type. The statement shall describe how a party may appeal the decision or SEPA determination, or both, including applicable fees and the elements of a petition for review;

b. A statement that the complete case file is available for review. The statement shall list the place, days and times where the case file is available and the name and telephone number of the county representative to contact for information about the case.

7. Notice of Agricultural, Forest or Mineral Resource Activities.

a. All plats, building permits or development approvals under this title issued for residential development activities on, or within a radius of five hundred (500) feet for lands zoned agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40 and FR-80), or surface mining (S), or in current use pursuant to Chapter 84.34 RCW, shall contain or be accompanied by a notice provided by the responsible official. Such notice shall include the following disclosure:

The subject property is within or near designated agricultural land, forest land or mineral resource land (as applicable) on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

b. In the case of subdivisions or short plats, such notice shall be provided in the Developer Covenants to Clark County; in the case of recorded binding site plans, such notice shall be recorded separately with the County Auditor.

(Amended: Ord. 2005-04-12; Ord. 2008-06-02; Ord. 2016-06-12; Ord. 2017-07-04; Ord. 2019-05-07)

E. Public Notice.

1. The notice of the application shall include the following information, to the extent known:

a. The project name, the case file number(s), date of application, the date the application was determined fully complete, and the date the notice is sent;

b. A description of the proposed project and a list of project permits included with the application;

c. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location and zoning;

d. A map showing the subject property in relation to other properties or a reduced copy of the site plan;

e. The name of the applicant or applicant's representative and the name, address and telephone number of a contact person for the applicant, if any;

f. A list of applicable code sections;

g. A statement of the public comment period, that the public has the right to comment on the application, receive notice of and participate in any hearings, request a copy of the decision

930 once made, and any appeal rights. A statement shall indicate that written comments received by
 931 the county within fifteen (15) calendar days from the date of the notice will be considered by staff
 932 in their recommendations;

933 h. The date, time, place and type of hearing;

934 i. A statement of the preliminary SEPA determination, if one has been made;

935 j. A statement that a consolidated staff report and SEPA review will be available for
 936 inspection at least fifteen (15) calendar days before the public hearing, and the deadline for
 937 submitting written comments;

938 k. The deadline for submitting a SEPA appeal pursuant to Section 40.570.080(D);

939 l. The date, place and times where information about the application may be examined and
 940 the name and telephone number of the county representative to contact about the application;

941 m. The designation of the hearing examiner as the review authority, and a statement that the
 942 hearing will be conducted in accordance with the rules of procedure adopted by the hearing
 943 examiner; and

944 n. Any additional information determined appropriate by the county.

945 2. Where the notice of application under Section 40.510.030(E)(1) is incomplete, a separate
 946 notice of public hearing shall be provided which is consistent with Section 40.510.030(E)(3).

947 3. Distribution.

948 a. The responsible official shall mail a copy of the notice to:

949 (1) The applicant and the applicant's representative;

950 (2) The neighborhood association in whose area the property in question is situated,
 951 based on the list of neighborhood associations kept by the responsible official;

952 (3) Owners of property within a radius of three hundred (300) feet of the property that is
 953 the subject of the application if the subject property is inside the urban growth boundary or to
 954 owners or property within a radius of five hundred (500) feet of the property if the subject
 955 property is outside the urban growth boundary;

956 (a) The records of the County Assessor shall be used for determining the property
 957 owner of record. The failure of a property owner to receive notice shall not affect the
 958 decision if the notice was sent. A sworn certificate of mailing executed by the person
 959 who did the mailing shall be evidence that notice was mailed to parties listed or
 960 referenced in the certificate, and

961 (b) If the applicant owns property adjoining the property that is the subject of the
 962 application, then notice shall be mailed to owners of property within a three hundred
 963 (300) or five hundred (500) foot radius, as provided in this subdivision, of the edge of
 964 the property owned by the applicant adjoining or contiguous to the property that is the
 965 subject of the application;

966 (4) Agencies with jurisdiction; and

967 (5) To known interest groups and other people the responsible official believes may be
 968 affected by the proposed action or who request such notice in writing.

b. The county shall publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the hearing, the nature and location of the proposal and instructions for obtaining further information.

c. Except for plat alteration applications that have been elevated to Type III applications, and shorelines permits, the applicant shall post one (1) four (4) foot by eight (8) foot sign board on the property subject to the development application as follows:

(1) Location. The board shall be installed at the midpoint along the site street frontage at a location five (5) feet inside the property line, or as otherwise directed by the responsible official to maximize visibility.

(2) Required Information. The sign shall include the following information:

(a) The project name, a brief description (i.e., one hundred (100) single-family lots; fifty thousand (50,000) square feet of retail commercial space; etc.) case number, public hearing date, time and location.

(b) The telephone number and Internet address through which interested parties may contact the county for additional information.

(c) The preliminary land subdivision, site plan or other plot plan view depicting the applicable development permit request.

(d) The name of the applicant's contact and his or her telephone number, should interested parties wish to contact the applicant directly.

(e) The sign shall be made of materials that will endure inclement weather conditions typical of Clark County.

(f) The responsible county official shall provide the applicant a template for the sign.

(3) Construction Specifications. The sign board shall be constructed with four (4) foot by eight (8) foot material and secured with at least two four (4) inch by four (4) inch posts. The board shall be affixed to the posts with at least two five (5) inch long three-eighths-inch diameter bolts, washers and nuts per post. Bracing shall be provided in order for the sign board to withstand high wind conditions that may occur. Posts shall be dug twenty-four (24) to thirty-six (36) inches into the ground for stability. The top of the sign board shall be designed to be between seven (7) and eight (8) feet above grade.

(4) Installation and Removal Requirements. The sign board, including all required information per Section 40.510.030(E)(3)(d)(2), shall be installed on the site at least thirty (30) calendar days in advance of the public hearing. The applicant shall maintain the sign board in good condition throughout the application review period, which shall extend through the time of the final county decision on the proposal including the expiration of the applicable appeal period of the hearings examiner's decision if submitted. If the sign board is removed, county review of the land use application may be discontinued until the board is replaced and has remained in place for the required period of time. The applicant shall remove the sign board within fourteen (14) calendar days after final county decision on the application, including expiration of applicable appeal periods.

(5) Affidavit of Installation. The applicant shall execute an affidavit certifying where and when the sign board was posted and submit to the responsible official for inclusion in the project file.

(Amended: Ord. 2006-11-07; Ord. 2007-06-05; Ord. 2007-11-13; Ord. 2009-03-02; Ord. 2011-08-08; Ord. 2014-01-08)

1013 F. Decision Timelines.

1014 Not more than ninety-two (92) days after the date an application is determined fully complete, the
1015 hearing examiner shall issue a written decision regarding the application(s); provided:

1016 1. If a determination of significance (DS) pursuant to Chapter 40.570 is issued, then the hearing
1017 examiner shall issue a decision not sooner than seven (7) calendar days after a final environmental
1018 impact statement is issued.

1019 2. An applicant may agree in writing to extend the time in which the hearing examiner shall issue
1020 a decision. If the hearing examiner grants such a request, the hearing examiner may consider new
1021 evidence the applicant introduces with or subsequent to the request. New evidence may not be
1022 considered unless the time extension would allow for public review and response to the new
1023 evidence.

1024 3. In determining the number of days that have elapsed after the county has notified the applicant
1025 that the application is fully complete, the following periods shall be excluded:

1026 a. Any period during which the applicant has been requested by the county to correct plans,
1027 perform required studies, or provide additional required information. The responsible official shall
1028 specify a time period based on the complexity of the required information in which the required
1029 information must be submitted. The period shall be calculated from the date the county notifies
1030 the applicant of the need for additional information until the earlier of the date the county
1031 determines whether the additional information satisfies the request for information or fourteen
1032 (14) calendar days after the date the information has been provided to the county.

1033 b. If the county determines that the information submitted by the applicant under Section
1034 40.510.030(F)(3)(A) is insufficient, it shall notify the applicant of the deficiencies and the
1035 procedures under Section 40.510.030(F)(3)(A) shall apply as if a new request for studies had
1036 been made.

1037 c. Any period of time during which an environmental impact statement (EIS) is being
1038 prepared; provided, that the maximum time allowed to prepare an EIS shall not exceed one (1)
1039 year from the issuance of the determination of significance unless the responsible official and
1040 applicant have otherwise agreed in writing to a longer period of time. If no mutual written
1041 agreement is completed, then the application shall become null and void after the one (1) year
1042 period unless the responsible official determines that delay in completion is due to factors
1043 beyond the control of the applicant.

1044 G. Vesting.

1045 1. Type III applications (other than zone change proposals) shall be considered under the land
1046 development regulations in effect at the time a fully complete application for preliminary approval is
1047 filed.

1048 2. Contingent Vesting. An application which is subject to pre-application review shall earlier
1049 contingently vest on the date a complete pre-application is submitted. Contingent vesting shall
1050 become final if a fully complete application for substantially the same proposal is submitted within
1051 one hundred eighty (180) calendar days of the date the responsible official issues its written
1052 summary of pre-application review subject to the limitations of Section 40.510.030(A)(4). Requests to
1053 waive contingent vesting rights by the applicant shall be approved, subject to the request being
1054 submitted in writing and submitted as part of the full application package.

1055 3. Special rules apply to approved planned unit developments under Section 40.520.080 and
1056 certain nonconforming uses under Section 40.530.050.

1057 4. For concurrency approval requirements, see Section 40.350.020.

1058 (Amended: Ord. 2007-06-05)

1059 H. Burden of Proof. Except for SEPA appeals which are governed by RCW 43.21C.075, the applicant
1060 shall have the burden of proving by substantial evidence compliance with applicable approval standards.
1061 Where evidence is conflicting, the examiner shall decide an issue based upon the preponderance of the
1062 evidence.

1063 (Amended: Ord. 2007-11-13)

1064 I. Appeals.

1065 1. Applicability. A final decision may be appealed only by a party of record. Final decisions may
1066 be appealed only if, within twenty-one (21) calendar days after written notice of the decision is
1067 mailed, a written appeal is filed in the superior court of Clark County, pursuant to Chapter 36.70C
1068 RCW or applicable state law.

1069 (Amended: Ord. 2005-04-12; Ord. 2005-10-04; Ord. 2006-09-13; Ord. 2007-11-13;
1070 Ord. 2009-10-19; Ord. 2011-08-08)

1071 J. Special appeal procedure applicable to uses licensed or certified by the Department of Social and
1072 Health Services or the Department of Corrections.

1073 1. In accordance with RCW 35.63.260 (Section 1, Chapter 119, Laws of 1998), prior to the filing of
1074 an appeal of a final decision by a hearing examiner involving a conditional use permit application
1075 requested by a party that is licensed or certified by the Department of Social and Health Services or
1076 the Department of Corrections, the aggrieved party must, within five (5) days after the final decision,
1077 initiate formal mediation procedures in an attempt to resolve the parties' differences. If, after initial
1078 evaluation of the dispute, the parties agree to proceed with mediation, the mediation shall be
1079 conducted by a trained mediator selected by agreement of the parties. The agreement to mediate
1080 shall be in writing and subject to RCW 5.60.707. If the parties are unable to agree on a mediator,
1081 each party shall nominate a mediator and the mediator shall be selected by lot from among the
1082 nominees. The mediator must be selected within five (5) days after formal mediation procedures are
1083 initiated. The mediation process must be completed within fourteen (14) days from the time the
1084 mediator is selected except that the mediation process may extend beyond fourteen (14) days by
1085 agreement of the parties. The mediator shall, within the fourteen (14) day period or within the
1086 extension if an extension is agreed to provide the parties with a written summary of the issues and
1087 any agreements reached. If the parties agree, the mediation report shall be made available to the
1088 county. The cost of the mediation shall be shared by the parties.

1089 2. Any time limits for filing of appeals are tolled during the pendency of the mediation process.

1090 3. As used in this section, "party" does not include county, city or town.

1091 (Amended: Ord. 2007-11-13)

Title 40: Unified Development Code

Code Amendments: Chapter 40.510

Responsible Staff:
Amy Wooten, Planner III
Susan Ellinger, Land Use Review Manager



Title 40 Code Changes

Background:

- There is a code inconsistency related to the use of postal mail and electronic mail (email).

What's changing?

- Amends language in Chapter 40.510 regarding mail
- Will not affect Chapters with defined mailing standards
- Correct scrivener's error in Section 40.510.030.D.6.a



40.510.0303.D.6.a:

- “A statement that the decision and SEPA determination, if applicable, are final, but may be appealed as provided in **Section 40.510.030(H)** to Council within fourteen (14) calendar days after the date the notice is mailed. The appeal closing date shall be listed in boldface type. The statement shall describe how a party may appeal the decision or SEPA determination, or both, including applicable fees and the elements of a petition for review.”



Scriveners correction:

- 40.510.030(H): “Burden of Proof. Except for SEPA appeals which are governed by RCW [43.21C.075](#), the applicant shall have the burden of proving by substantial evidence compliance with applicable approval standards. Where evidence is conflicting, the examiner shall decide an issue based upon the preponderance of the evidence.”

Changes to:

- 40.510.030(I): Appeals.
 1. Applicability. A final decision may be appealed only by a party of record. Final decisions may be appealed only if, within twenty-one (21) calendar days after written notice of the decision is mailed, a written appeal is filed in the superior court of Clark County, pursuant to Chapter [36.70C](#) RCW or applicable state law.

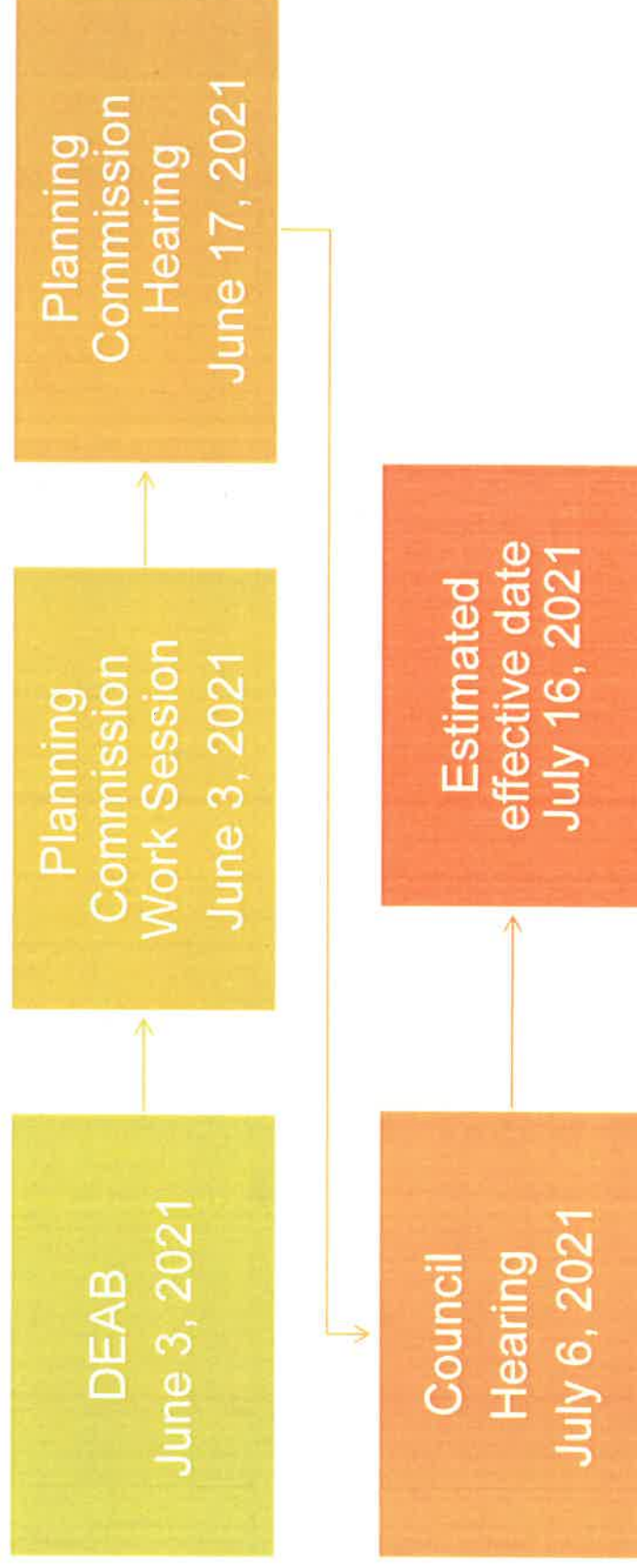


Public Involvement

- SEPA Notice
- Newspaper legal notice
- Clark County website posting



Type IV Public Process



Questions and Discussion

Clark County Community Development
<https://clark.wa.gov/community-development>



WISER: We are ready to start the meeting.

JOHNSON: Great. Good evening, gentlemen, members of the public, and staff members. I would like to call this online public hearing to order on Thursday, June 17th, 2021. My name is Karl Johnson and I am the Chair of the Clark County Planning Commission.

Due to the COVID-19 pandemic, regular meetings and hearings of the Clark County Planning Commission will be held in a virtual meeting room, this will allow for safe participation by commission members, staff and members of the public.

The role of the Planning Commission is to review and analyze comprehensive plan amendments, zoning changes and other land use related issues. We follow a public process including holding hearings during which the public has the opportunity to provide additional perspectives and information.

In legislative matters, the role of the Planning Commission is advisory. The County Council will hold separate hearings, consider our recommendations and make a final determination.

The procedure are as follows: The Planning Commission will conduct a public hearing tonight and take testimony regarding the

matters being considered. If any public comments were received by mail or e-mail before tonight's hearing, they have been sent to the PC members and entered into the Planning Commission's public record.

The staff will go first tonight and present the information about the agenda item to the Planning Commission. The Planning Commission can then ask questions to staff. Next, we will invite the applicant to speak. Then members of the public who wish to provide comment will be asked to speak.

When we get to the public comment portion of our agenda, we will provide more detailed information at that time. Please keep your remarks brief and to the point. You will have three minutes to speak. Remarks should be directed to the Planning Commission as a body and not directed to the audience, staff or the applicant. This is not an appropriate time to question staff or the applicant. Please do not repeat testimony that has already been provided.

At the conclusion of public testimony, the applicant, if present, may take up to three minutes to respond after which the public portion of the hearing will be closed. Staff may then respond to the testimony from the applicant and the public. The Planning Commission will then deliberate and make a recommendation to the County Councilors.

Before we begin tonight's hearing, Planning Commission members and staff, please ensure that your microphones are turned off or muted unless you are speaking. Planning Commission members, please remember to turn on your video cameras on throughout tonight's meeting.

Audience members, you are all muted. You will only be unmuted if you wish to speak during the public comment period. Please show respect for the people testifying tonight whether or not you agree with their comments.

One last item has been requested by our court reporter. Karl, that's me, we have a court reporter, Cindy Holley, who has to deal with Webex and sound issues while transcribing verbatim minutes during the hearing. If any PC members have questions, I will call upon you each individually stating your first and last name and you can respond with your questions if you have any.

When it comes to discussion, Planning Commissioners, I will also call on you each individually and ask you if you have discussion items. When you make a motion, please state your first and last name and then make your motion. And when you second your motion, please state your first and last name and then second the motion.

For our PC member Bryant Enge, please say Bryant with a T, that will make it easier for our court reporter so she knows who's speaking; otherwise, it is difficult for her to get a verbatim record down. Thank you for everyone. And are there any questions regarding these instructions?

Okay. Hearing none, we will move forward. Would anyone on the Planning Commission like to disclose any conflicts of interest before we begin tonight's hearing?

BARCA: Karl, this is Ron Barca. I don't have a conflict, but per the rules I need to inform the group that I just don't have enough bandwidth to do my video tonight. I don't know whether it's my hairdo or what, but I am going to remain without video.

JOHNSON: Okay, Ron, thank you. So now we're going to call our roll call and introduction of guests. We'll start with roll call of the Planning Commission members for this hearing. Please say I'm here after Sonja calls your name. Sonja, can you please take roll.

BARCA: I am here.

ENGE: I'm here.

JOHNSON: Bryan, I believe you're muted.

HALBERT: Okay. Now I'm unmuted. Bryan Halbert is here.

VERANZO: I am here.

MORASCH: Absent.

WISER: He's absent.

SWINDELL: Matt Swindell, I'm here.

JOHNSON: Here.

JOHNSON: So now we'll move to approval of the agenda for June 17th. Can I have a motion for the approval of the agenda for June 17th, 2021. Please raise your hand.

HALBERT: Bryan Halbert here and I make a motion to approve the agenda for June 17th.

SWINDELL: Matt Swindell and I second it.

JOHNSON: Can I have a second. Go ahead, Matt.

SWINDELL: Matt Swindell. I second it.

JOHNSON: We have a motion and a second. Sonja, can you please take roll call for the motion.

BARCA: AYE

ENGE: AYE

HALBERT: AYE

VERANZO: AYE

SWINDELL: AYE

JOHNSON: AYE

WISER: 6 ayes.

JOHNSON: Motion passes. Now we'll take a motion and second for approval of minutes of March 18th, 2021.

ENGE: Bryant Enge. I make a motion for approval of the minutes for March 18th, 2021.

SWINDELL: Matt Swindell. I'll second it.

JOHNSON: We have a motion and a second. Sonja, can you please take a roll call for the motion.

BARCA: AYE

ENGE: AYE

HALBERT: AYE

VERANZO: AYE

SWINDELL: AYE

JOHNSON: AYE

WISER: 6 ayes.

JOHNSON: Motion passes. We'll now hear communications from the public. We are now going to take communications from the public. This is for communications for those items that are not, I repeat, not on tonight's hearing agenda. Sonja, it is your turn to speak.

WISER: Good evening members of the public. For attendees using their computer or Webex application, if you would like to speak, please utilize the raised-hand icon. You can do this by opening the participant window which is the round participant icon at the bottom of the screen and selecting the hand icon in the lower right-hand portion of the screen. Staff will only acknowledge those attendees during the public comment period who have raised their hand by selecting the hand icon.

When you are acknowledged, you will be unmuted. If you wish to retain the ability to be a party of record on this matter or to challenge or defend any decision made on this matter, please state and spell your name and provide your address for the record.

For attendees using the telephone, which is audio only option, you

need to press star 3 on your phone's number panel to raise your hand. You will hear a message that says you have raised your hand to ask a question. Please wait to speak until the host calls on you.

When you are acknowledged, you will be unmuted and you will hear a message that says you have been unmuted. When you have finished your comment, please press star 3 to lower your hand. You will hear a message that says you have lowered your hand.

Please note that public comments are limited to three minutes per person in order to accommodate all speakers. Again, this is the public comment portion of tonight's hearing and is not intended for items not listed on tonight's agenda.

We will now mute/unmute people with raised hands one at a time. If an attendee provides a name, I will read off the name before unmuting; otherwise, we will indicate he's unmuting the next caller. Are there any people calling in, Daniel?

SOMMERVILLE: At this time we have no public attendees.

WISER: Okay. So there's nobody calling in, Karl, so there would be no public comment. We'll close the public comment portion of the hearing and go to the hearing item.

JOHNSON: Okay. With that said, our first public hearing item, our staff, Amy Wooten, will present first on changes to Chapter 40.510 UDC, Type I, II and III Processes. Amy.

WOOTEN: Good evening members of the Planning Commission. Can you hear me?

JOHNSON: Yes, we can.

WOOTEN: Okay. Good. My name is Amy Wooten, I'm with Community Development. Tonight I'm here to discuss with you a proposal to update Chapter 40.510 which is the procedure section of the Title 40 Development Code. Slide.

Very recently staff discovered an inconsistency with the code regarding the use of regular mail versus e-mail when sending documents during the preliminary development review process and subsequently developed some questions regarding those procedures.

Most sections of the code state that documents need to be mailed which has historically been interpreted to allow the use of e-mail instead of regular mail; however, a few places in the code specify that e-mail can be used if the recipient gives consent only. Because e-mail is specified in these sections, a question arose

as to whether staff could interpret the word mail to allow e-mail.

It seems that this procedural inconsistency became highlighted during COVID stay-at-home orders. After internal discussion it was decided that the use of e-mail unnecessarily created a potential avenue for appeal. So, and in order to be in compliance with procedural requirements, staff has reverted to hardcopy mailing and has had to double-up by also e-mailing all preliminary decision-oriented correspondence which includes final pre-app reports, fully complete determinations and preliminary and final decisions.

Although this procedure is code compliant, over time it will prove to be unduly consuming of staff time, increase copying and mailing costs. To provide a sustainable solution, staff is proposing a compilation of language changes to the code and we are here tonight for Planning Commission approval of those changes.

Staff has also included a correction to a scrivener's error in Subsection 40.510.030.D.6 that was identified while compiling the code changes that we're here to discuss tonight.

So what's changing? In general, staff proposes to change code language in Chapter 40.510 that refers to mail to a more general send. Certain sections will require more specific changes.

For instance, all of the sections related to pre-application final report will change as it currently requires attendees of a pre-application conference to sign a register during the in-person conference. This register allows attendees to specify how they would like to receive the final report by either mail or e-mail and allows participants who were not listed in the application materials to be included on the distribution list.

Remote work has changed this practice because now we're using a web-based format for plan for meetings, so proposed revisions to the existing language will require that final staff reports be sent to all meeting attendees. These proposed changes will not affect mailing procedures and requirements that are specifically outlined in other chapters. Slide.

The change to the scrivener's error cited in Section 40.510.030.D.6.a informs the notice of the final SEPA determination and corrects the citation reference which currently refers the user to, slide, Section 40.510.030.H. This section responds to burden, provides burden of proof language and it correctly refers them to Section 40.510.030.I which is the Appeal section.

Staff finds that the proposed code change will positively affect

the use of several resources within the Community Development Department as costs associated with hardcopy mailing of staff and Hearing Examiner decisions will be reduced, staff time copying, paper costs, stuffing envelopes and postage.

An additional benefit for applicants is that it will preserve the applicant or appellants appeal window as the delivery of the decision arrives the day of the issuance. Slide.

Staff has complied with the Type IV procedural requirements for Code Amendments put forth in Section 40.560.020 for this request. In accordance to those procedures, staff issued a Notice of SEPA determination of nonsignificance on May 31st. That notice had a closing date for response by the public of June 14th.

To date no comments have been received, no comments were referred to the Planning Commission for comment or review. Slide.

Prior to tonight's hearing, staff presented the proposed changes to the Development Engineering Advisory Board, they reacted generally in favor of the proposed changes. And as you can see on the schedule, staff is pushing this issue forward with some urgency as this change in procedure has had a definite effect on staff time and draws on resources we otherwise would not be using up.

Notice will be issued on June 18th for the Council hearing that's set for July 6th, and based on that schedule, the anticipated effective date for these changes should be July 16th. Slide.

Thank you members of the Planning Commission for your time and consideration. If there are any questions, I'm available for answers.

JOHNSON: Okay. Thank you, Amy. Does any Planning Commissioners have any questions for staff? I will call each PC member one at a time to ask your questions. Ron Barca.

BARCA: Thank you, Karl. Thank you, Karl. I don't have any questions, but I believe what Amy brought forward was very similar to our work session, and the clarification on the scrivener's error was right in line with what I had hoped to see. I'm satisfied with the information.

JOHNSON: Thank you, Ron. Bryant Enge.

ENGE: Karl, this information was straightforward and in agreement with Amy that these changes would make the process more efficient.

JOHNSON: Thank you, Bryant. Bryan Halbert.

HALBERT: Yeah, I concur with Ron and with Bryant and no other questions at this time.

JOHNSON: Thank you. Aldo Lampson.

VERANZO: No, no questions.

JOHNSON: Okay. Thank you, Aldo. Matt Swindell.

SWINDELL: No. It looks really good, really good presentation and really straightforward stuff so, no, no questions.

JOHNSON: Great. I don't, I think everything's in line. Amy, great job, quick and concise, I appreciate that. With that, we'll close the questions and now we're going to open the hearing for public testimony.

I'll begin a brief summary of the public participation process we will follow so you can understand how you can participate in the hearing during the public testimony.

To be a party of record you must submit written testimony before, during or prior to the close of public hearing, provide oral testimony at the public hearing or request in writing to be a party of record. No person shall be a party of record who has not

furnished their name and accurate post office, mailing address or e-mail address. If any written comments were received prior to June 17th, 2021, they were submitted to the PC members and posted on the Planning Commission website.

We will now take oral testimony as we did earlier this evening. Sonja, once again, it is your turn to speak.

WISER: Daniel, do you show any people that have signed in, called in?

SOMMERVILLE: At this time there are no attendees.

WISER: There are no attendees that are showing as pertinent at this virtual hearing, so we can close the public comment, public testimony portion of the hearing.

JOHNSON: Okay. We will now close the public testimony portion of the hearing. Staff may now respond to the public testimony which there is none.

Does the Planning Commission have any additional comments? I will now call each PC member one at a time, you might just try a simple yes or no to expedite this. Ron Barca.

BARCA: No.

JOHNSON: Bryant Enge.

ENGE: No.

JOHNSON: Bryan Halbert.

HALBERT: No.

JOHNSON: Aldo Lampson Veranzo.

VERANZO: No.

JOHNSON: Matt Swindell.

SWINDELL: No.

JOHNSON: And I, Karl Johnson, have none. I will now accept a motion and a second. Please state your first and last name for the record.

BARCA: It's Ron Barca. I would like to make a motion to accept staff's recommendation as presented tonight.

HALBERT: This is Bryan Halbert, and I would second that motion.

JOHNSON: We have a motion and a second. Sonja, will you please take a roll call by calling each PC members name after which they will vote yes or no on the motion.

BARCA: AYE

ENGE: AYE

HALBERT: AYE

VERANZO: AYE

SWINDELL: AYE

JOHNSON: AYE

WISER: 6 ayes.

JOHNSON: The motion passes, and that concludes the public hearing portion of our agenda tonight. We now look to old business. Is there any old business? Okay. Is there any new business? Any new business? Seeing none. And is there any comments from members of the Planning Commission? Please raise your hand, state your first and last name if you'd like to make any comments tonight.

So, gentlemen, really quickly just a mental note for us, I had asked this question is why I'm putting it on the record is there are no, and, Sonja, correct me again if I'm wrong here, there are no

hearings or meetings for July and then we're starting to ramp up, those are Sonja's words and that always makes me feel worried, we're ramping up in August. So I just want to encourage you, I understand like I got my vacation stand in August, but, Sonja, what do we have coming up in August?

WISER: In August we're having the first batch of the annual reviews. Right now on the docket I see one but that can change; however, Planning Commission work session on August 5th, the first Thursday of the month, the hearing on August 19th which is the third Thursday, and I'll be in touch with you in mid-July.

JOHNSON: Yeah. And it's been working out, I cross my fingers, gentlemen, is that we'll get to see each other face-to-face sometime soon, this is kind of getting old just not seeing you guys, so again, just kind of keeping that ahead and we did great, we got out of here quick tonight so enjoy your evening and if there's not nothing else. Oh, a special thanks tonight to our staff and of course Cindy and now our hearing is adjourned.